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AWARD  
Tech Report  
Series

# Governance & Co-Management in the Legalameetse Nature Reserve

## Development of a Collaborative Vision, Institutional Arrangements & Roles & Responsibilities

Co-Management “Visioning & Governance Workshop” on 4th - 7th November 2019

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March 2014



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# Abbreviations

|           |   |
|-----------|---|
| AWARD     | Association for Water and Rural Development                                     |
| CPA       | Communal Property Association   |
| COMA      | Co-Management Agreement   |
| CoMaC     | Co-management committee   |
| CoGHSTA   | Cooperative Governance, Human Settlements and Traditional Affairs               |
| DRDLR     | Department of Rural Development and Land reform                                 |
| EMs       | Environmental monitors  |
| ICC       | Interim Co-managing Committee   |
| KRA       | Key Result Area   |
| K2C       | Kruger to Canyon Biosphere  |
| LEDET     | Limpopo Department of Economic Development Environment and Tourism              |
| LMC       | Legalameetse Management Committee   |
| LNR       | Legalameetse Nature Reserve   |
| LRC       | Legal Resource Centre   |
| NEMPAA    | National Environment Management: Protected Areas Act                            |
| PMP       | Park Management Plan  |
| RESILIM O | Resilience in the Limpopo Basin Olifants  |
| RMP       | Reserve Management Plan   |
| SLE       | Shared Learning Event   |
| VSTEPP    | Values, Social, Technological, Ecological/Environmental, Economic and Political |

# 1 Purpose, participants & agenda

## 1.1 Purpose & attendance

The three-day Co-management “Visioning Workshop” was held from the 5th to 7th November 2019 at Hoedspruit Rhino Convention Centre. It was preceded by a half-day meeting hosted by Harry van der Linde to review the Draft Collaborative Development Framework.

The purpose of this three-day event was to support co-management arrangements for the Legalameetse Nature Reserve. In this regard, the workshop was designed to address key challenges (see below) and to collaboratively explore, develop and define governance arrangements between landowners and LEDET (the “parties”) for co-management based on:

- (a) A collaborative vision for co-managing,
- (b) Institutional arrangements and;
- (c) Associated and roles and responsibilities.

This are informed by the chosen co-management model, policy frameworks and experiences from LNR and elsewhere.

TABLE 1: OBJECTIVES OF EACH DAY

| DAY                 | THEME   | PURPOSE  |
|---------------------|---|--|
| 5 <sup>TH</sup> NOV | Development of a collaborative vision for the co-management of LNR                                | To collaboratively develop a clear vision and strategic objectives as the basis for co-managing  |
| 6 <sup>TH</sup> NOV | Governance and institutional arrangement for co-managing (LMC and LEDET)                          | To collaboratively develop strategic actions roles and responsibilities for co-management arrangements between the two parties           |
| 7 <sup>TH</sup> NOV | Governance and institutional arrangement for co-managing: (internal) Community based arrangements | To collaboratively identify challenges and strengths for internal institutional arrangements as the basis for further work (way forward) |



Figure 1: Group Photo of Participants

The event was attended by the six claimants communities from Legalameetse Nature Reserve (LNR), see Figure 2. This include: Mamashiane Madutula, Balloon, Cyprus, Paris and Madeira. Mamashiane and Madutula fall under their respective Communal Property Associations (CPAs). The remaining four communities have un-finalised land claims, they are currently in a process of sorting out the issues. Also present were representatives of the Limpopo Economic Development, Environment & Tourism (LEDET) and the Legal Resources centre (LRC).

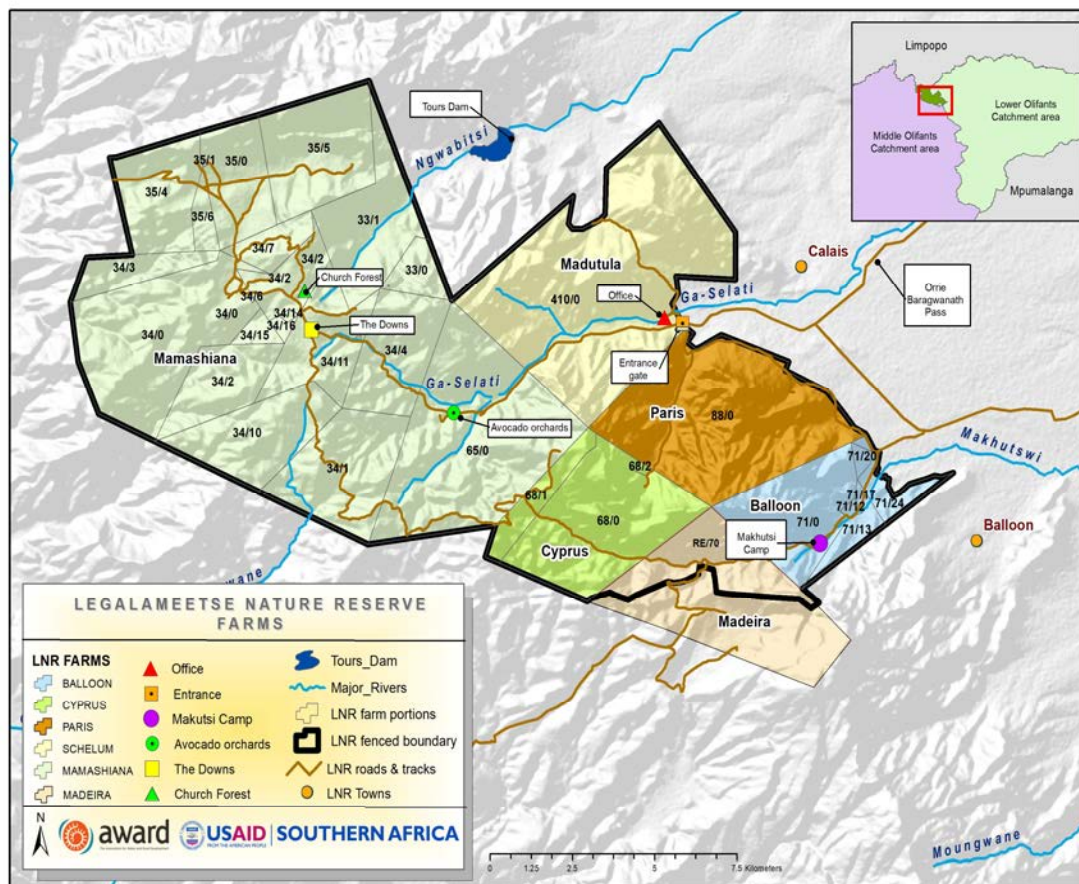


Figure 2: Map of LNR indicating claimant areas

Given the above background, the programme for the three days was designed to take participants through a process of exploring roles and responsibilities for co-management based on a shared vision.

## 1.2 Agenda/Programme

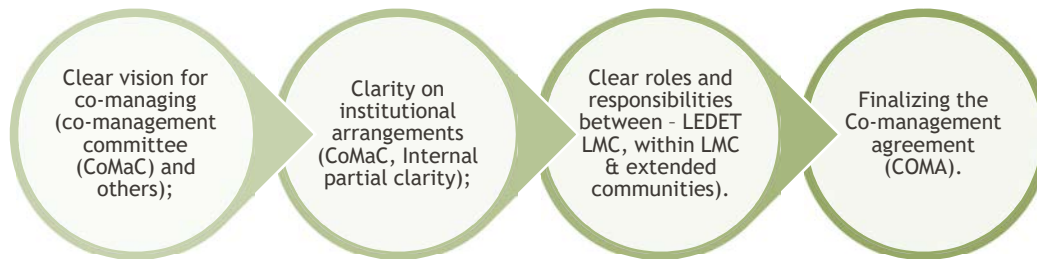
TABLE 1: AGENDA

| DATE                | TIME         | ITEM   |
|---------------------|--------------|--|
| 4 <sup>TH</sup> NOV | 17h00        | LMC participants check-in in Hoedspruit<br>Revision of LNR development framework with Harry van der Linde                    |
| 5 <sup>TH</sup> NOV | 8h30 - 17h00 | Development of a collaborative vision for the co-management of LNR   |
| 6 <sup>TH</sup> NOV | 8h30 - 17h00 | Governance and institutional arrangement for co-managing- Roles and responsibilities of co-management between LMC and LEDET. |
| 7 <sup>TH</sup> NOV | 8h30 - 16h00 | Governance and internal institutional arrangement for co-managing (LMC)  |





## Outcome



## 2 Background to current situation

A number of challenges have emerged with respect to co-management arrangements and signing of a new co-management agreement between the new land-owners (land claimants) and LEDET (the ‘parties’). Following intensive work with both the Legalameetse Management Committee (LMC) and LEDET, it was clear that unclear governance and institutional arrangements are key contributors.

The main challenges are:

- The lack of a co-management committee between the LMC and LEDET with clear roles and responsibilities for each (henceforth referred to as CoMaC)
- The lack of a joint vision between the parties for co-managing the LNR;
- Weak governance and institutional arrangements within the LMC (as representative of land-claimants);
- Weak governance and institutional arrangements between CPA’s and/or claimant communities (internal);

### 2.1 Overview of current institutional arrangements

As it currently stands, there are still only two CPAs that have been formally registered and the other four have not received a settlement agreement.

Two of the communities (**Madutula, Mamashiane CPA**) **have their land claims finalised and have signed settlement agreements**. Through this, two CPAs have been established.

- **Madutula CPA**. Considered the strongest. My Mangena Secretary and long-standing effort and liaison between communities and LEDET. They do meet fairly regularly. The Mad CPA has no constitution. Non-compliant with CPA Act and requirements
- **Mamashiane CPA**. Weak. No constitution. Don’t meet. Chairperson: Jacky Mashito. Derek Thobejane attends regular AWARD meetings (informal chairperson?). Non-compliant with CPA Act and requirements.

Four of the communities (**Balloon, Cyprus, Madeira, and Paris**) **do not have settlement agreements**.



Legally however they fall under the Makhutšwe CPA (i.e. they are **not registered CPAs individually which is their desire**) and are still waiting for their land claim to be finalised in LNR. These four communities claims were consolidated into one claim under Sekororo land claim in 1998. This was gazetted in 2003<sup>1</sup> and approved in 2005. The Makhutšwe CPA was formed in 2005 for the Sekororo land Claim. The Claim consists of agriculture land (private farms) and protected area (state) Legalameetse Nature Reserve. This has made the resolution with respect to settlement on LNR extremely messy and untenable

The affected communities are:

- Paris and Balloon: Claims on agricultural land and P.A. (LNR)
- Madeira and Cyprus: Only claim on P.A.

## Legalameetse Nature Reserve Management Committee

The Legalameetse Nature Reserve Management Committee (LMC) is the entity that will enter into a second COMA with LEDET. There are two issues related to the LMC, the first of which will be addressed by the above actions. All 6 claimant communities are represented in the LMC. (Two from each = 12). They meet regularly since AWARD's support. However LEDET is of the opinion that they can only enter into a new co-management agreement with the two (Mauditutla and Mamashiane) CPAs with finalised settlement agreements. The LMC chaired by Mr Managena is adamant that all 6 communities must sign the COMA and that all six will benefit and be involved in co-management processes (development and beneficiation).

## 2.2 Co-managing and the co-management agreement

### 2.2.1 Co-management of the LNR

A COMA was signed in 2007. There is now a 'new' / draft COMA on the table, drafted in 2017.

The new owners are choosing the **Part Co management - Part Lease Model**. (Pay lease and involve communities in co-management). The new COMA states (City V):

“3.2 The parties agree that the model applicable to Legalameetse Nature Reserve should be in the form of a part lease and part co-management agreement between the parties, with the consideration of benefits for communities including:

- Participation in management activities and capacitating communities to take up management roles in future;
- Empowering communities through skilling
  - in financial planning,
  - project management,
  - nature conservation and
  - natural resources management;
- Consultation of communities by the other party;
- Access the reserve for resource harvesting and spiritual rituals



There is disagreement over the contents and the new landowners/ claimants have drafted a revised version.

The main issues of contention are:

- Rental fee R12 per ha per year?
  - Communities concerned how they arrived at R12?)
- Commercial development to be approved by MA
  - Against what plan? Why no involvement
- Moving from PPP to CPPP- Community - PPP
  - But current processes don't reflect this
- Park Management Plan
  - RMP no mention of community's involvement in process
- Employment and procurement- only MA decides who gets appointed
  - Major issue
- Training may be provided

## 2.2.2 Purpose of the agreement

The purpose of this agreement is to

- 1] Ensure that Legalameetse Nature Reserve is managed as a whole and effectively in terms of the laws, principles, regulations and guidelines regulating protected areas with Limpopo Province in concert with Legalameetse CPAs.
- 2] The management authority's intention is to enter into co-management agreement with Legalameetse CPAs land that is inside Legalameetse Nature Reserve and to ensure fair and equitable benefit sharing to the Legalameetse CPAs.
- 3] Ensure that there is common vision and objectives in terms of compliance, management and administration of Legalameetse Nature Reserve as a protected area.
- 4] This co-management agreement ensures that the reserve is managed as single unit and not in portions. We, therefore, as a collective commit ourselves to co-manage the reserve in compliance with the management objectives of the protected area.

### Note:

The co-management agreement covers land within Legalameetse nature reserve which comprise of Haffenden Heights 35, The Downs 34, Craggs 33, Malta 65, Farm 410, Cyprus 68, Paris 88 and Balloon 74.

## 2.3 Major institutional challenges

Currently, there are only two of the CPA's who are formally registered with the Department of Rural Development and Land Reform (DRDLR), this does pose in issue when establishing a co-management committee (CoMaC) among land owners, however an interim committee has been formed to assist in moving the process forward.



Four (4) of the six (6) CPAs have both conservation and agricultural land sectors claimed, two of the four are part of the Makhutšwe CPA. Those CPAs, Cypris & Madeira, that have no agricultural land only protected area land, engaged with the Makhutšwe CPA however they explained that they cannot join that CPA as they do not have hectares on agricultural land and therefore the benefits cannot be shared. This is where the challenge is. A potential solution would be to establish a CPA for those with conservation land only. There was mention of a meeting which was held with Shirami at Chief Skorotso offices and the question was asked on why do you want to exit the CPA, for the simple reason that there is no benefit sharing, no access to their land within the protected area and no transparency.

If the remaining four CPAs do not get registered and a settlement agreement, they will not benefit from the lease agreement or participate in any decision-making processes. This would cause potential conflict as communities and landowners become disgruntled by not seeing or having these benefits. Disgruntlement leads to resistance, wildlife poaching and unsustainable harvesting. There are long term consequences if this not come right.



## 3 Day 1 (5/11/19): Development of a collaborative vision & strategic objectives

### 3.1 Welcome & Introductions

On the first day, Dr Sharon Pollard welcomed participants to the ‘visioning workshop’ event followed by participants introducing themselves. A number of questions were asked by Sharon in order to determine the number of beneficiaries the CPAs were representing. She encouraged the participants to connect and make use of the next three days. The workshop will be conducted in English and a brief summary of the discussion would be translated into Northern Sotho.

The following organisations were represented in the shared learning event, however there were some who joint a bit later and some who left after a day or so (See appendix for full details).

- AWARD (facilitators)
- AWARD Sun-grantee (EMROSS)- Attended s days (4<sup>th</sup> and 5<sup>th</sup>)
- LEDET- The reserve Manager only attended a day (6<sup>th</sup>) due to other work commitments
- LRC
- K2C- attended day 1 of the SLE (5<sup>th</sup>)
- LNR six claimant communities (see below table).

TABLE 3: LNR CLAIMANT COMMUNITIES

| NAME CLAIMANT COMMUNITY | REPRESENTATIVES AT LMC LEVEL | REPRESENTATION PER COMMUNITY (NO. OF MEMBERS/CLAIMANTS) |
|-------------------------|------------------------------|---|
| MAMASHIANA CPA          | 2 members                    | 600 claimants<br>5 000 Beneficiaries                    |
| MADUTULA CPA            | 2 members                    | 4 000 beneficiaries                                     |
| CYPRUS                  | 2 members                    | 720 claimants   |
| BALLOON                 | 2 members                    | 256 claimants   |
| MADEIRA                 | 2 members                    | 1920 beneficiaries                                      |
| PARIS                   | 2 members                    | 700   |



#### Agenda for the day

1. Welcome
2. Some background
3. Visioning a future: what is a vision; the PMP vision versus COMA
4. Developing the COMA vision
  1. Context for our COMA vision
    1. Timeline
    2. VSTEPP
    3. Examining documents that contain elements of our vision already
  2. Defining strategic themes or objectives for co-managing
5. Report back
6. Draft vision and discussion

#### *Intended outcome for the day:*

- *Clear vision for co-managing (CoMaC and others); Clarity on institutional arrangements (CoMaC, Internal partial clarity); Clear roles and responsibilities between - LEDET LMC, within LMC & extended communities);*
- *Finalizing the COMA (Co-management agreement)*

## 3.2 Issues of governance, identity & co-management

Sharon introduced the discussions by noting that co-management is a transformative process which aims to address inequities of the past. As communal residents, communities had access to their land and enjoyed rights which carried with them responsibilities. This placed people in a custodial role of the land, governed by customary legal arrangements.

With forced removals under apartheid, people lost their rights and with it their identity as landowners and custodians. With restitution we need to explicitly acknowledge that it is not just a legal process but also a socially and politically transformative one.

*It is not a favour; restitution is in and of itself a right to regain a sense of identity.*

In this regard, terminology is important. The continued referral to ‘communities’, ‘beneficiaries’ and ‘land claimants’ does little to recognise this right nor a restitution of identity. She urged all participants to adopt the term “landowners” so as to recognise the need for a new identity. All agreed and it was acknowledged that the terms ‘communities’, ‘beneficiaries’ and ‘land claimants’ had a very specific meaning and use in this context.

## 3.3 Development of the vision and strategic objectives

Dr Sharon discussed the importance of having a collaboratively developed vision for co-management. Members of the newly-formed “interim” CoMaC were encouraged to make use of their time within the four days as it gives an opportunity to connect, develop and finalise their institutional arrangements. A presentation was presented by Dr Sharon on how to establish the vision and strategic objectives for co-managing the LNR and is described below.



### 3.3.1 Background to the development of a collaborative vision for co-management

#### Sharon provided some background to visioning within the context of co-management

- **Co-management** has been identified by the South African government as being a key mechanism in overcoming the highly contentious issue of land claims on protected areas (Findlay 2015). In this context, although the reserve remains under conservation, beneficiaries, who have successfully won claim to their land, are reinstated land ownership rights, are afforded the opportunity to jointly manage their land with the conservation agency and are accrued benefits including job creation and resource use rights. In this way, the three national priorities of land reform, environmental conservation and socio-economic upliftment are reconciled. In this context, co-management is a collaborative management strategy between land claimants and the management authority (LEDET).
- In order to govern LNR collaboratively, the two partners (i.e. the landowners and LEDET) need a shared vision for co-management. This will guide the development of **strategic objectives** from which **activities** can be derived for both parties. The vision is therefore the foundation for assigning **roles and responsibilities**, guided also by various policies.
- This vision is different to the Park Management Plan vision although they are obviously linked. There is enough experience and documentation now to develop a shared vision.
- **Legal imperatives:** There is a legal imperative to develop a vision for co-management. Obviously there cannot be co-management nor a COMA if there is no vision.
  - Within the National legislation under the National Environmental Management: Protected Areas Act (NEMPAA), it is noted: “The management authority may enter into an agreement with another organ of state, a local community, an individual or other party \*Co-management as a practice of good governance. We must show good governance through the co-management. Good governance means the good norms, guidance of practices, what are the relationships that need to be started, maintained and show transparency” (NEMPAA; S.42 2003; (www.environment.gov.za, n.d.)
- COMA (2017 draft): 2.4 “Purpose of this agreement is to ensure that there is common vision and objectives in terms of compliance, management and administration of Legalametse Nature Reserve as a protected area”.

The facilitator then explored *what is in a vision*:

*A vision should present a collective, medium to long term vision for the desired state of co-management of LNR to derive strategies that are realistic and locally attainable.*

It was noted that:

- The vision is done collaboratively.
- It is jointly negotiated and should create agreement and reduce conflict.
- It is guided by principles which are both locally negotiated and guided by the policy frameworks

- The vision sets the basis for the co-management and guides the CoMaC on how they will work together.
- It is the basis for forward planning, long term monitoring and evaluation
- It answers the question: What do you expect to achieve when entering into the COMA? This is set out when developing the vision. Co-management seeks to practice good governance.
- It is based on context
- It contains key ideas related to the strategic objectives for co-management. For example, it will contain words related to values (trust, equity) and social, environmental and technical strategies such as beneficiation, environmental integrity, development ethos and models of governance.
  - Thus, in this case the vision is a collective of environmental issues, social issues, beneficiation development, policies and compliance.
- Once you have strategic objectives you can then develop activities and assign roles and responsibilities.
- **The scope and content of a vision should provide adequate detail yet not too much detail that makes it difficult to achieve.**
- An example was given (Figure xx).

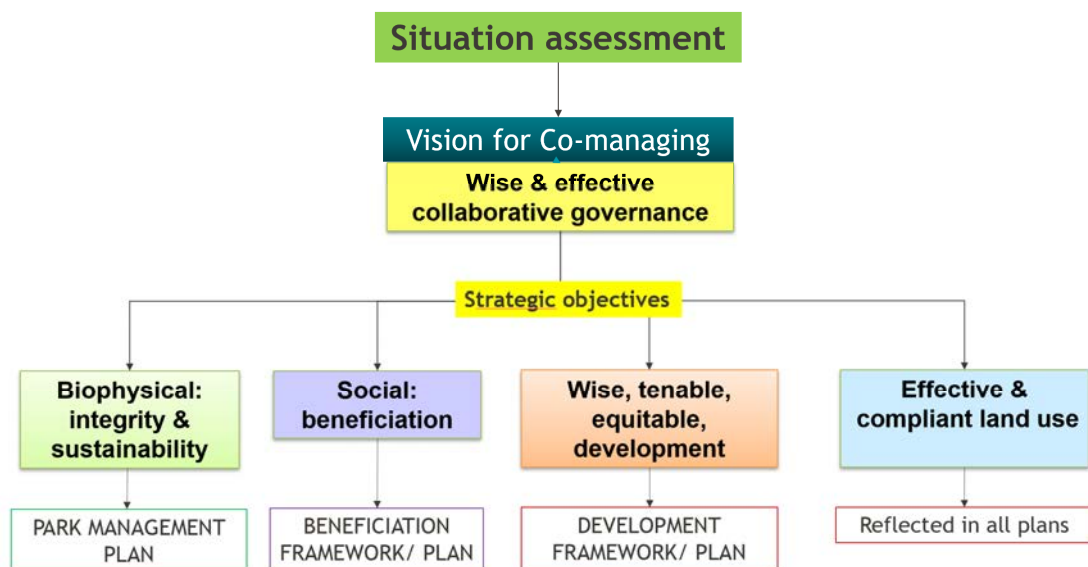


Figure 3: An outline showing how a vision is developed from an understanding of context which then helps to define strategic objectives. Practically the activities, roles and responsibilities are then captured in various plans or strategies.

The two partners, LEDET and Landowners, need a shared vision to be able to guide the strategic objectives as **shown clearly in Figure 3**. Part of the confusion and conflict is because there is currently no shared vision so its unclear what the purpose of co-management is and who does what. Sharon stressed that *if there is no vision, then there cannot be a plan with clear roles and responsibilities.*





As a group discussion and practical example, Dr Sharon explained the ‘Thinking about Governance’ infographic (Figure 4) which would assist the group in practicing good governance was conducted to give a practical example on how to remember good governance.

## Governance & legal pluralism

### Who, how and why will co-management be sustained?

#### Authority

- Overall “power”
- **Set rules and how?**
- **Whose rules (legal pluralism)**
- delegate

#### Responsibility

- Abide
- Monitor
- **Regulate**
- Administer
- Adjudicate



#### Rights

- Access
- To decide
- **Usufruct**

#### Benefits/ costs

- **Who & why?**
- Indirect benefits can be seemingly meaningless

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Figure 4: Heuristic used in the workshop for talking about components of Governance

A vision is part of the management cycle. It tells you

? What do you want to achieve?

The management cycle, addresses

? What is your plan?

? How will you achieve it?

? What will tell us how we are doing?



Figure 5: Co-management Adaptive Planning Cycle

### 3.3.2 Process for visioning

Sharon noted that **the vision should have been done at start of co-management engagement in 2007** but was not. We now have lots of experience, information and management options so we will use this. Normally the process would start with understanding context (Figure 3) and once a situation is understood, establishing the vision and then building on the strategic objectives follows.

However she noted that after reviewing the context, we will ‘work backwards’ by first doing strategic objectives and then constructing a joint vision. We can do this because there has been a lot of work already and so we have a good idea of the strategic objectives even if they aren’t named as such.

### 3.3.3 Principles guiding the vision

In addition to those captured above (What is in a vision) the LNR COMA vision is guided by certain principles. Many of these have already been outlined in the 2007 COMA, which specifically states the need to “Ensure that there is common vision and objectives in terms of compliance, management and administration of Legalameetse Nature Reserve as a protected area”. These are:

- 1] Ensure that Legalameetse Nature Reserve is managed as a whole and effectively in terms of the **laws, principles, regulations and guidelines regulating protected areas with Limpopo Province** in concert with Legalameetse CPAs .
- 2] The management authority’s intention is to enter into co-management agreement with Legalameetse CPAs land that is inside Legalameetse Nature Reserve and to **ensure fair and equitable benefit sharing** to the Legalameetse CPAs.

- 3] This co-management agreement ensures that the **reserve is managed as single unit** and not in portions. We therefore, as a collective commit ourselves to co-manage the reserve in compliance with the management objectives of the protected area.
- 4] **Within the vision, the following needs to be included:**
  - Biophysical, integrity / sustainability (Park Management plan - existing and being revised)
  - Social beneficiation (Beneficiation framework)
  - Wise, tenable, equitable development (Development framework / plan)
  - Effective & compliant land use

### 3.3.4 Supporting plans and documents for the vision

Sharon noted that the co-management vision is not a stand-alone but guides various other plans all of which contribute to meeting a vision for LNR as shown in Figure 6.

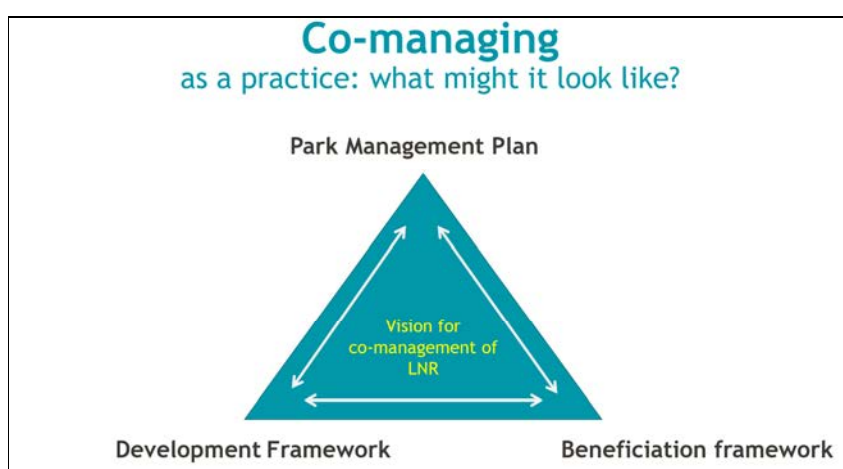


Figure 6: The vision both guides other important strategies and plans and is supported by these in practice

Various supporting documents within the COMA, aid in complementing and supporting the vision and strategic objectives (Figure 6). The LNR Park Management Plan (PMP) is currently being revised, the Development framework document has been drafted, and the Beneficiation framework document aims to be completed shortly. It is critical that the management authority (LEDET) supports and implements the details outlined in the COMA.

#### Box 1: The PMP vision (source)

We see a collaborative partnership between the State and the relevant communities in the ongoing conservation and sustainable use of the Legalameetse **Nature Reserve**.

**From this partnership, we envisage securing:**

- Meaningful and sustained benefits derived for the Mamashiane, Cypress, Mangena, Balloon, Madeira and Paris communities;
- Protection of the reserve's outstanding scenic qualities;
- Preservation of the reserve's unique historical, cultural and archaeological attributes; and

Conservation of the biodiversity of the six vegetation units found in the reserve; and its associated fauna.



## Discussions:

The following key comments emerged from this session:

- With respect to beneficiation, within LEDET there are currently no independent cost centers that have been established for various managed reserves. As preference, an independent cost Centre should be established for the LNR order to investigate shared benefits generated by the reserve. The beneficiation plan outlines however that if LEDET is unable to create these independent cost centers, the clearly defined sharing model will be a grey area.
- Concerns were raised regarding the compartmental silos in which LEDET works. This was raised specifically in relation to involvement in the PMP. Landowners can be empowered by involvement and can have opportunity to participate in the revised PMP. There were questions around whether LEDET was empowering the landowners and communities during this process or where they merely just ‘consulting’ them. This needs to be established as the landowners need to be empowered and educated on reserve management, know the Reserve and appreciate its natural assets. LEDET has encouraged the landowners to visit various projects within the LNR to see what LEDET has achieved and show appreciation. Sharon noted that participation is required under various policies. She stressed also that the lack of a clear vision and associated plans means that again there is confusion as to who does what. In this case (the PMP), this is something that clearly rests with LEDET but that involves the landowners; how and what this means must be clearly spelt out.

## 3.4 Step 1: Understanding context

Sharon explained that we use a number of tools to explore context: a timeline and a profile of the current context using the “V-STEER” tool. This is simply a way to remind us to describe the context and characteristics of the ‘Legalameetse context’ from different perspectives:

- **S**ocial
- **V**alues
- **T**echnical
- **E**nvironmental
- **E**conomic
- **P**olitical

Participants were reminded that in fact this activity was already done at a previous workshop held in 2015, where both the VSTEER activity and the CHAT tool were used. In 2016, the decision to enter Co-management was discussed however different understanding of co-management between the communities and LEDET created a struggle to get Government to come to an agreement with the landowners. This was partially due to unclear and undefined roles and responsibilities.



### 3.4.1 Timeline

The information collected in 2015 was used to stimulate and extract historical events as history play an important role. Additions were made to the timeline and final timeline presented (Table 4) and supported by a detailed description of events following AWARD’s involvement (Table 5).

TABLE 4: LNR TIMELINE OF MAJOR EVENTS DEVELOPED FOR PERIOD 1916 - 2014

| Years | Details   |
|-------|---|
| 1990  | First white man to Cyprus   |
| 1916  | First house was built by the war prisoners  |
| 1920  | OFCOLACO “discovered” by Orrie Baragwaneth  |
| 1925  | First White man( McNeil) came to Cyprus   |
| 1937  | Balloon forced removals   |
| 1958  | Madeira forced removals   |
| 1960  | Union changed to the republic of SA ( New laws were imposed), Paris first forced removals |
| 1990  | First complete LNR Park Management Plan (PMP) developed                                   |
| 1995  | First Working For Water project (EPWP)  |
| 1996  | Constitution of South Africa implemented  |
| 1998  | Establishment of NEMA & National Water Act  |
| 2003  | Establishment of NEMPAA Act   |
| 2005  | Second revised PMP for LNR  |
| 2007  | Formation of the LMC & signing of the first Co-management agreement                       |
| 2008  | Talk of commercialization with investors  |
| 2010  | four Makuleke communities took GOV to court for CLR Act as unlawful                       |
| 2012  | Makuleke capacity building & development empowering landowners                            |
| 2013  | Recent Park Management Plan   |
| 2014  | Bricks arrived in the reserve   |

TABLE 5: DETAILED TIMELINE FOLLOWING AWARD'S INVOLVEMENT

|      |   |
|------|---|
| 2015 | <ul style="list-style-type: none"> <li>•AWARD interception and strategic partnership.</li> <li>•MOA between AWARD &amp; LMC</li> <li>•Conservation Plan V2 basic principles of co-management developed (LEDET has minutes)</li> <li>•2015-2017 extended drought</li> </ul>  |
| 2016 | <ul style="list-style-type: none"> <li>•Settlement Agreement signed by two CPAs</li> <li>•Capacity assessment, Development of selection criteria for employment</li> <li>•Incorporation of the youth in CPA</li> <li>•CBNRM &amp; co-management training</li> <li>•LNR Youth skills &amp; career workshop</li> <li>•Re-engagement with DRDLR</li> </ul>                   |
| 2017 | <ul style="list-style-type: none"> <li>•Access road blocked by the LMC. (Regarding WFW programme)</li> <li>•MOU amongst CPAs</li> <li>•Draft inclusive COMA</li> <li>•Community resolutions (pull out of Makhutse CPA)</li> <li>•Knowledgeable sharing programmes (youth, elders)</li> <li>•Feasibility study on LNR for development</li> <li>•LRC involvement</li> </ul> |
| 2018 | <ul style="list-style-type: none"> <li>•Makuleke exchanged learning</li> <li>•Deadlock with LEDET- COMA impasse</li> <li>•First radio broadcast</li> <li>• Co-management Awareness campaigns</li> </ul>   |
| 2019 | <ul style="list-style-type: none"> <li>•Shared learning with other co-management claimants (February)</li> <li>•LRC involvement</li> <li>•CPA Annual report - no mention of LNR.</li> </ul>   |



### 3.4.2 Broad description of characteristics

Participants engaged in discussions using the VSTEER tool to broaden the context for LNR and the co-management process. This was informed by various views, characteristics of LNR surroundings and how they shape LNR and surrounds.

TABLE 6: TABLE REFERRING TO INFORMATION COLLECTED ABOUT THE LNR THROUGH THE VSTEER TOOL

| VSTEER THEMES/<br>COMPONENTS | KEY DISCUSSIONS UNDER EACH COMPONENT   |
|------------------------------|--|
| VALUES                       | <p>The values guiding LNR co-management are held in various policies and Constitutions e.g.</p> <ul style="list-style-type: none"> <li>- NEMPAA ACT;</li> <li>- MoU between the land claimants;</li> <li>- COMA Framework etc.</li> </ul>  |
| SOCIAL                       | <ul style="list-style-type: none"> <li>- Maruleng has 34 villages with population estimated between 100 000 - 150 000 of which over 90% of the people depend social grants system. An estimated 13,000 - 14,000 people are part of the claim on LNR;</li> <li>- There is high unemployment rate in the area especially youth;</li> <li>- Majority of people who are employed work within the farming sector (linked to economic);</li> <li>- Drugs and alcohol issues;</li> <li>- Permanent employment is low;</li> <li>- Most survive on piecemeal jobs within the reserve;</li> <li>- Woman &amp; Child headed households (Social grants as a safety net);</li> <li>- Crime - from petty to serious;</li> <li>- Underreported cases of rape;</li> <li>- Level of trust = low;</li> <li>- LNR fall within 3 local municipalities;</li> <li>- High dependency on Natural Resources (e.g fire wood, water, bush tea, thatch and medicinal plants).</li> </ul> |
| TECHNICAL/<br>TECHNOLOGICAL  | <ul style="list-style-type: none"> <li>- LNR covers 18,000 ha, claimed by 6 communities with 4 unsettled claims outstanding;</li> <li>- The land within LNR comprises of the following farm portions; Haffenden Heights KT35, The Downs KT34, Craggs KT33, Malta KT65, Farm KT410, Cyprus KT68, Paris KT88 and Balloon KT74;</li> <li>- It is a high biodiversity and a Strategic Water Source Area- making it an important protected area in the province. It has a rich cultural history;</li> <li>- There are infrastructural assets. However new developments seems to have gone ahead without a clear development plan;</li> <li>- Infrastructure developments along the riverine zone.</li> </ul>  |



|  |   |
|--|---|
| <b>ECONOMIC</b>                                    | <ul style="list-style-type: none"><li>- High dependency on social grants;</li><li>- High dependency on Natural Resources;</li><li>- Developments within LNR which may not be Self-sufficiency or self-sustainable;</li><li>- Subsidy by government needed;</li><li>- Prospects for a protected area status?</li><li>- Unlocking the reserve potential, but there are also limitations, structured around objectives;</li><li>- Regional economic system does not do the planning in isolation - regional communication;</li><li>- Lack of zonation planning in the reserve;</li><li>- Agricultural impacts and pollutants</li></ul>   |
| <b>ENVIRONMENTAL</b>                               | <ul style="list-style-type: none"><li>- Strategic water source area - start of three rivers;</li><li>- Diverse landscape and biodiversity;</li><li>- Invasive alien plants - common species black wattle);</li><li>- Sand mining within the villages surrounding LNR;</li><li>- Pollution cases- solid waste dumping surrounding LNR;</li><li>- Uncontrolled wildfires;</li><li>- Deforestation along the rivers;</li><li>- Staff housing within the reserve - unlawful, EIAs?</li><li>- Centre of endemism;</li><li>- Medicinal plants very important;</li><li>- Cattle over grazing, soil erosion within and outside the reserve;</li><li>- Encroachment of development - urbanization;</li><li>- Agricultural impacts and pollutants (Economic),</li></ul> |
| <b>POLITICAL<br/>(CO-MANAGEMENT<br/>COMMITTEE)</b> | <ul style="list-style-type: none"><li>- Ethnical tension - Tsonga &amp; Sotho, amongst traditional authorities;</li><li>- Power dynamics, leading to mushrooming leaders (induna's &amp; chiefs), divided the community with new. This new TAs are not recognized by CoGHSTA, However they are operating;</li><li>- Internal management issues between CPAs and TAs;</li><li>- LMC meets regularly but there has been no functional co-management committee.</li></ul>  |

### 3.5 Step 2: Development of Strategic Objectives for the LNR

This section was prompted by the discussions in the above table (Table 6). Participants broke into three groups. Each group was instructed to discuss two VSTEOP themes/components and come up with a strategic objectives for each components. The strategic objectives will be incorporated to derive a vision for LNR co-management. The following was the group arrangements and team leaders/ facilitators for the activity:

- Group1: Values & Political Objectives (Lillian & Derek, Kholo);
- Group2: Social & Environmental Objectives (Sharon, Nick, William);
- Group3: Economic & Technical Objectives (Harry & Thabang).

Within these groups, instructions were

- Nominate a scribe;
- Use context, policies to discuss what you want in a strategic objective;
- Write a draft strategic objective and motivation;
- Put both of these in a power point slide to share.

It was noted that we should not ‘start at zero’. We have done lots of work over the past 5 years and have a good knowledge of VSTEED issues. AWARD had summarised much of this in preparation for the workshop and these were given to each group as handouts. Each group was asked to use this background which was summarised for them (Appendix 2; Handouts), and the timeline and VSTEED done today to collaboratively develop a DRAFT strategic objective.

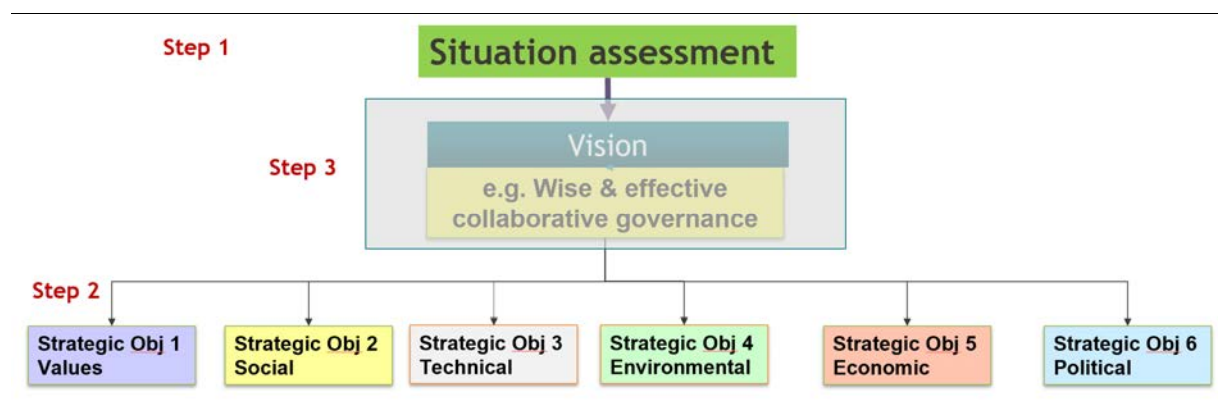


Figure 7: At Step 2 participants developed strategic objectives before moving on to the Vision

Three groups were established each taking two strategic objectives to work on. The participants were randomly divided into the following groups with team leaders/ facilitators to facilitate the activity:

- Group1: Values & Political Objectives (Lillian & Derek, Kholofelo);
- Group2: Social & Environmental Objectives (Sharon, Nick, William);
- Group3: Economic & Technical Objectives (Harry & Thabang).

It was noted that VALUES is a little different to the others in that these values cut across all the strategic objectives.

Within these groups, instructions were

- Nominate a scribe;
- Use context, policies to discuss what you want in a strategic objective (conversation);
- Write a draft strategic objective and motivation;
- Put both of these in a ppt slide to share.

It was noted that we should not ‘start at zero’. We have done lots of work over the past 5 years and have a good knowledge of VSTEED issues. AWARD had summarised much of this in preparation for the workshop and these were given to each group as handouts. Each group was asked to use this background which was summarised for them (Appendix 2; Handouts) and the timeline and VSTEED done today to collaboratively develop a DRAFT strategic objective.





## Report back

Each group presented their work and provided a motivation for this. The results of this exercise are captured in Table 7. Discussions and suggestions then followed and the amended versions shared in plenary (Table 5). Participants accepted these are the co-management strategic objectives.

TABLE 7: DRAFT AND FINALISED STRATEGIC OBJECTIVES FOR CO-MANAGEMENT AS DEVELOPED BY PARTICIPANTS OF THE WORKSHOP

| COMPONENT   | DRAFT STRATEGIC OBJECTIVE PRESENTED BY EACH GROUP   | REWORKED STRATEGIC OBJECTIVE   |
|---|---|--|
| <b>Values (something important)</b><br><b>Cross-cutting across all strategic objectives</b> | <b>We strive to...</b><br>maintain and protect the integrity of Legalameetse for the preservation of culture, heritage and environmental assets and to ensure the sustainability through the adoption of values such as equity, effective & timely communication, honesty, transparency and respect to all. | Co-management will be guided by the key values of equity, accountability, honesty, transparency, trust and respect; We strive for a co-management practice that supports Transformation (inclusivity in terms of identity and gender); learning and that is reflexive and effective & timely communication.  |
| <b>Political (governance, co-management committee)</b>                                      | <b>We strive to...</b><br>adopt ethical governance, be legally compliant, transparent, accountable for our actions, and to work collaboratively (beneficiary communities and reserve authorities), allowing for democratic governance which provides equity and inclusivity as per the COMA.                | <b>We strive to...</b><br>adopt a democratic governance model for co-management that is ethical, legally compliant, transparent, accountable, and that supports a collaborative relationship between the land-owners, beneficiary communities and LEDET which provides equity and inclusivity.   |
| <b>Environmental</b>  | Conserve and maintain LNR as a key biodiversity hotspot and foundation for benefits through compliance with legislation and guided by the PMP as well as reduction of threats (such as pollution and pesticides) ultimately consolidating it with Greater Wolkberg.   | The environmental objective of co-management<br>To conserve and maintain LNR as a key biodiversity hotspot and foundation for benefits through compliance with legislation and guided by PMP and to expand this environmental objectives into areas surrounding LNR by addressing threat (such as pollution and pesticides) and ultimately consolidating with Greater Wolkberg.  |
| <b>Social (characteristics)</b>   | Is to empower, capacitate, maintain and share the benefits of LNR with beneficiaries recognizing that LNR is a unique asset that can 'partially' meet expectations/ benefits.   | The dual social objective of co-management is <ul style="list-style-type: none"> <li>- To empower and capacitate land-owners to co-manage so as to ensure biological integrity, maintain and share the benefits of LNR with beneficiaries whilst recognising that LNR is a unique asset that can partially meet expectations/ benefits.</li> <li>- To ensure that LNR, as a unique asset is embedded in the broader socio-ecological landscape.</li> </ul> |



|                                     |   |   |
|-------------------------------------|---|---|
| <b>Technical/<br/>technological</b> | <p>“To ensure integrated management of the bio-physical features of the LNR, guided by the co-management committee within applicable legislation, strategy and plans.”</p>  | <p>The technical strategic objective is “To ensure integrated management of the infrastructural assets of the LNR, guided by the co-management committee within applicable legislation, strategy and plans.”<br/><i>It was proposed to leave the technical strategic objective for the PMP as it is unnecessary for the COMA.</i></p> |
| <b>Economic</b>                     | <p>Benefits/ Economic Objectives:<br/>To optimize the generation of long-term sustainable beneficiation and the fair &amp; equitable distribution as bound by co-management agreement, through the co-management committee, LNR Management Plan &amp; Development &amp; Beneficiation Plan.</p> | <p>The economic and beneficiation strategy for co-management is To ensure that collaboratively-developed frameworks (including the co-management agreement, LNR Management Plan, Development Plan and Beneficiation Plan) are used to guide development and beneficiation that is sustainable, fair and equitable.</p>                |

## Discussions

### ■ Values:

- Suggestions to include values such as ‘Accountability, Trust, Transformation, Gender equality’. Transformation from community members to now landowners is what needs to be showcased within this specific strategic objective. Embodied in the Legislation.

### ■ Political:

- Suggestion: We strive to adopt ethical governance, be legally compliant, transparent, and accountable for our actions, work collaboratively with the beneficiary community and reserve authorities, allowing for democratic governance which provides equity and inclusivity ruling as per the COMA.
- Discussions around whether it is for only reserve authorities, have the 13,000 community members been taken into consideration. A way forward would be to define who are the primary stakeholders, secondary stakeholders and other stakeholders. An additional comment as to recognize this objective as per the Co-Management Agreement. This creates a relation instrument with LEDET through the PMP.

### ■ Environmental Objectives:

- Suggestions: Perpetuity - Motivate with why to conserve and maintain the LNR in such a way, this will assist in molding the objective. This environmental strategic objective can overlap slightly with the PMP strategic objective however it is to bring in the environmental ethic which will project into the surrounding LNR and assist with identifying any threats and opportunities to the reserve. It is key to creating a park expansion plan, as it builds on conserving beyond the boundaries of the nature reserve.

### ■ Social Objectives:

- Suggestions: The use of the word ‘partially’ within the inverted commas suggests ‘to some extent’. Making use of words such as empowerment, identification, transformative would assist in setting this strategic objective for co-management apart from the PMP.



This strategic object should portray the social value of having the LNR verse not having the LNR. Having the social investment within the reserves social objectives is what sets it apart from other reserves making it a unique asset.

- Comments around the wording of the 'beneficiaries', an asterisk (\*) needs to place to allow for expansion of the beneficiary levels.

#### ■ Technical Strategic Objectives:

- Suggestions: The groups questioned the meaning of the word 'bio-physical' in this case, would it encompass all aspects and factors within the reserve and how this assist within an integrated management approach does. A mention of how this strategic objective in principle, can support the implementation of the park management plan.
- Suggestion to replace 'Biophysical' with 'Infrastructure' as the technical strategic aspect should reflect more on the logistical operations of the reserve. It was proposed to leave the technical strategic objective for the PMP as it is unnecessary for the COMA.

#### ■ Benefits/ Economic Objectives:

- Suggestions: To optimize the generation of long-term sustainable beneficiation and the fair & equitable distribution as bound by co-management agreement, through the co-management committee, LNR Management Plan & Development & Beneficiation Plan.
- Use of the word 'Optimize' shows that there is potential of the reserve but still within the limitation of sustainability within the ecological, social and economic side. Constraints are limited by sustainability; however, any current or future benefits/ economic opportunities should be stimulated & optimized.
- Comments on 'Equitable' and how it is managed. This can be developed by the CMC. Examples - Share holder shift, CPPP. Comments on the non-monetary 'Asset' and how that can be defined.

## 3.6 STEP 3: Development of a Vision for Co-Management

Sharon reminded participants that normally one would develop the vision before strategic objectives by asking the question: Knowing *the context, what is our vision for co-managing LNR?*

In this case we derived the vision from both the context and the strategic objectives (elements of a vision). At the end of day 1, AWARD facilitated the drafting of a vision for co-management based on the aforementioned strategic objectives.



The agreed vision is:

### Box 2: Vision for the Co-management of the Legalameetse Nature Reserve

**The LNR Co-Management Committee strives to develop a culture of excellence and care in the co-management of the Legalameetse Nature Reserve through:**

- a. Adopting principles of good governance (following the rule of law, participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and transformative)
- b. Ensuring equitable and long-term beneficiation and development based on sustainable integrated development and beneficiation planning
- c. Adoption of integrated management principles that commit to systemic planning
- d. Conserving and maintaining the Reserve as a key biodiversity hotspot and asset as bound by the park management plan and embedded in a broader socio-ecological landscape; and
- e. Empowering and supporting social transformation processes that place Legalameetse Nature Reserve as central to the social and cultural identity of the members of the communal property association

**Synopsis: The LNR Co-Management Committee strives to develop a culture of excellence and care in the co-management of the LNR through good governance for the conservation of cultural and environmental assets, equitable and sustainable beneficiation and development and empowering and supporting social transformation processes.**

## 3.7 Conclusion

The workshop participants managed to work collaboratively to develop a Vision and Strategic objectives as summarised in Figure 8.

Sharon went on to explain that the next steps are to

- Develop key activities for each strategic objectives and to discuss and agree on roles and responsibilities.

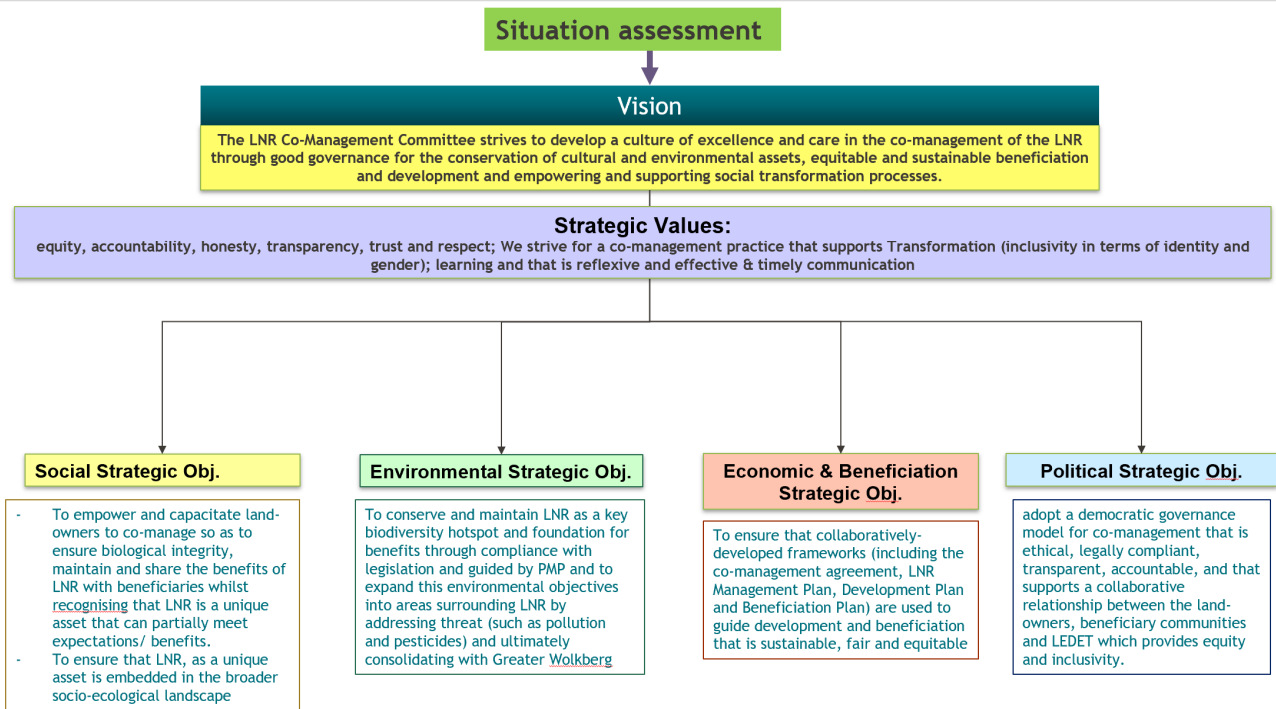


Figure 8: The Vision and strategic objectives for the co-management of LNR as developed by workshop participants



Figure 9: Group 2 working on Social & Environmental Objectives



Figure 10: Group 1 working on Social & Environmental Objectives



Figure 11: Group 1 working on Social & Environmental Objectives

The workshop closed at 17h45.



## 4 Day 2 (6/11/19): Roles & Responsibilities Of Co-managing (LMC & LEDET)

### 4.1 Session 1: Welcome, purpose, participants and agenda

The workshop started at 8h00.

Sharon welcomed everyone and gave an overview of yesterday's proceedings and an overview of the agenda.

#### 4.1.1 Agenda

- 1] Welcome, purpose participants and agenda
- 2] Snapshot of progress with restitution
- 3] Summary of vision and strategic objectives from Day 1
- 4] Identifying Activities, R & R
  - a. already named in documentation\*\* and listing some high level activities
  - b. Identify activities in all documentation related to COMA
- 5] Identify high level activities related to your vision
- 6] Make sure both are accounted for
- 7] Assign R&R and motivation to each
- 8] Report back
- 9] Preparation of draft document

#### 4.1.2 Purpose

The purpose of the day is *To collaboratively develop governance arrangements between the parties for co-management and associated roles and responsibilities based on*

- Co-management model
- a clear vision (DAY 1)
- policy frameworks
- experiences from elsewhere

Sharon reminded participants why are we focusing on the defining the roles & responsibilities?

- 1] Impasse can be resolved by having a shared vision and clearly understanding roles and responsibilities.
- 2] Roles and responsibilities are already outline in some documents.
- 3] Making use of the vision & strategic objects can assist in this process.



### 4.1.3 Participants

Most participants remained the same as the Day 1. Some participants had to leave:

- Harry van der Linde
- Nic Theron (K2C)

## 4.2 Session 2: Progress with restitution and the COMA

There is a deadlock within the settlement agreements which prohibits forward movement of the CoMaC. An interim co-management committee was formed only in October 2019 to assist the process to move forward. As noted previously, this was long overdue.

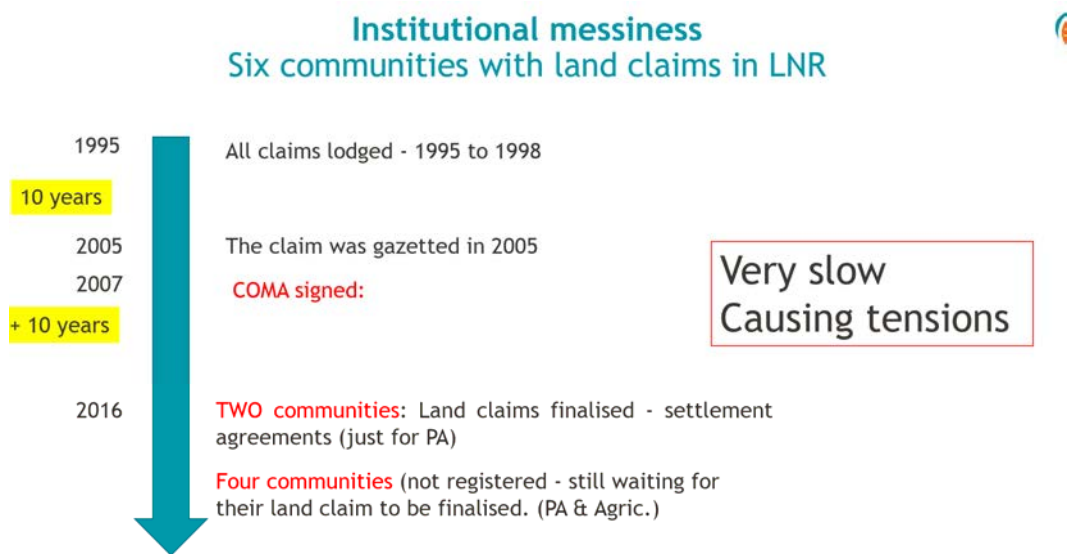


Figure 12: Summary slide of restitution process to-date

Once the roles and responsibilities are established, the conflict on many issues should be reduced. Furthermore, in the spirit of trying to support the drafting and signing of a new COMA, Sharon noted that potential areas of conflict should be named here so that they can be addressed. She stressed that this is a safe space as only the parties are present. This was agreed by all.

#### Concerns with current COMA draft:

Dr Sharon discussed various points of the 2017 COMA as there were several issues that raised in the February SLE or by landowners since then. :

1. Rental fee R12.00/ha
  - a. Concerns around how this amount came about
2. Commercial development to be approved by Management Authority.
  - a. In direct contradiction to statements in other documents (Development Framework document, supporting document to the COMA).
  - b. Why no involvement on their own land regarding future developments. This would not happen on privately/ individually owned land?





3. COMA may be reviewed anytime in line with the commercialization of the LNR
  - a. Unclear on what this means? How does this happen?
  - b. Landowners need to be fully a part of this process and the commercialization plan. It is their land.
4. Moving from PPP to CPPP
  - a. Currently processes do not reflect this process.
5. Park Management Plan
  - a. RMP no mention of communities involvement in process
  - b. In direct contravention to the Acts which talks about Empowerment of landowners and communities
6. Employment and procurement processes
  - a. Only Management Authority deciding?
  - b. Training may be provided. Why is it listed in the document as it 'will' then only 'may be' provided?

LEDET assisted in clarifying some of these issues.

#### Issue 1: Rental fee- How did LEDET arrived at R12 per ha/annum

- Historical background on rental fees came from uniting homelands in 1994. Former Venda Government used to pay R1/ha then this was raised to R2/ha and then to R5/ha per annum.
- LEDET researched about the rental fee in claimed reserves. They looked at what had been the amount for other reserves that had entered COMA. At the time (before the 2007 COMA was signed), north West province was paying 0.15c per hectare per annum to land owners. In most parts of Kwa-Zulu Natal, the government was not paying rental. The highest rate found was R5.00 per hectare and we benchmark with other provinces. They also checked with the Department of Agriculture since they also deal with claimed farm lands.
- In 2007, LEDET consulted the communities on the rate of R5.00 per hectare. It was also made clear that once income generated by reserves (self-sustained), the rental agreement would be phased out, this method had already been adopted from Mpumalanga province.
- The rental fee is not market related. With regards to the current rental fee (R12), costs were discussed with 21 communities/land owners and R12/ha was the agreed upon amount. This amount increased LEDETs conservation fees (money used to operate reserves) from R400 000 to over R1 000 000.00. The operational running costs of a nature reserve comes at a cost therefore every cent needs to be accounted for
- Communities are encouraged to generate income for the reserves through other means as the dependence on government funding is unsustainable. Generally Reserves do not make large amounts of revenue and therefore there would be a need for a subsidy.
- A suggestion was made to have the wording changed from 'rent' to 'grant' as this assists with not having fees connected to market related fees.
- The LNR will receive a conservation fee/ grant to assist with development and income generation. Ultimately LEDET aims to have the LMC reap economic benefits through other sources.
- As commercialization takes place, the landowners need to be involved in the process. This has previously not happened; lack of participation and transparency will lead to conflict. A CoMaC needs to be a complete partnership.



- Mr. Mangena (chairperson) mentioned that since the drafting of the new COMA, the rental fee as listed in the 2007 draft of R5.00 per hectare per annum, has stopped being paid. The last payment received was in 2016. LEDET will not pay the R12.00/ha until the new COMA is signed, however, CPAs that signed the 2007 should still be receiving the R5.00/ha as that COMA is still affective for those registered CPAs. LEDET would investigate and follow up.

### Issue 2 and others on commercialisation: Commercial development to be approved by Management Authority.

This arose from landowners feeling that there was not enough engagement or participation on the process. This reverts back to the COMA where it states that landowners are to be empowered and educated by the MA. Currently, there is a proposal and expression of interest to build a resort. LEDET only approached and consulted with the two registered CPAs when meetings are held off-site (away from the LNR). If meetings are held at the LNR and surrounds, all CPAs/ claimants would be called to attend (particularly following the MOU signed for the 6 to work together).

The landowners do not have an issue with the commercialization, they have an issue

- Around the bricks and the paving project.
- The lack of involvement in commercialisation planning. It was noted that this is why AWARD with EMROSS has been supporting a Development Plan for LNR.

From LEDET: A push to have projects moving was due to the pressure of the end of a year budget deliverable. If project money is not used before the closing of the financial year, the money will be lost and possibly not given for the next financial year.

- A point was made that poor planning on the part of LEDET should not result in landowners being forced at the end of the financial year into unacceptable processes.

Questions arose as to who would be responsible for the purchased concrete that had been left to go hard as well as the other unused materials.

- Paulina was surprised by the number of questions because when arrangements had been made for the landowners to meet the project manager for the project, they were quiet with no further comments.
- In response, comments noted that this leads back to the importance of establishing clear processes and protocols on how various activities need to be handled within a CoMaC.
- The institutional relationship between the two parties needs to make use of the revised COMA as a tool.

Sharon questioned who had made the decision on whether there will be commercialization?

- LEDET responded by saying that they had decided to go ahead with commercialization. LEDET has always managed the Reserve and, in good faith, continued with the decision as they saw opportunity.
- Documentation that explains commercialisation and how it will be handled, has not been seen. All five reserves (which includes LNR) engaged in a meeting (date?) that explained the commercialization of the reserves. LEDET consulted a transactional advisor, either the reserve is too small, reserve has land claims and how this has an impact on the commercialization of a reserve.

Mr. Mangena discussed the meeting on the 29<sup>th</sup> October where the following documents where requested

1. Security clearance documentation that speaks to this.
2. Draft of the project document or concept document. (Input was given by the LMC into this document).
- 3.



Question: Whether the commercialization will be guided by any development framework?

- Answer: LEDET follows structural committees; treasury; advisors (legal, financial); they must comply with Treasury section 16. Thus government has a strong policy perspective.
- In contrast, it was noted that the work between LMC & AWARD is looking at social procedures of the Development Framework. This is where the LMC are asking to be a part of your development plans.

#### Issue 6: Employment and procurement processes Training may be provided

- Searched for clarification on the word “may”.
- LEDET strive to meet the co-management guidelines as outlined in NEMPA section 42. The COMA 2017 was submitted for legal advice by LEDET section, clarification on the word “may”, it was used because LEDET cannot raise the expectation of the community when budget provided is not always available. LRC agreed to this statement from a legal perspective, however ‘progressively’ may be a better suited word.
- A maximum amount of R300 000 was granted for training budget to LEDET, this amount is divided between 21 nature reserves in which they manage; there is also no guarantees of receiving this funding; budgets are being reduced every year. LEDET cannot commit for training however they do have a vested interest in developing the communities.
- LEDET noted that they cannot raise the expectation of the community when forecasted budget provided is not always available. An example was given whereby a maximum amount of R300 000 was granted for training budget to LEDET; this budget is divided between 21 nature reserves which LEDET manage. Also there is also no guarantees on this amount as budgets are being reduced every year. Thus LEDET cannot commit for training; however they do have a vested interest in doing training wherever possible.
- From a legal perspective, the LRC agreed with LEDET on the way of not wanting to raise expectations however the word ‘may’ can be adjusted to a better suited word such as ‘progressively’ that has a bit more explanation.

#### COMA in the case of outstanding Settlement Agreements

- LRC explained Section 42: Who must be part of the CoMaC . The management authority (MA) - can go into an agreement with a “community with interests”. A deeper look into this is needed. The Act defines “local communities” as people who have rights and those who have interest over the land.
- Also note that AWARD (as an entity with interests) could become a member: to become a friend of the CoMaC who can just be there as a support and advisory partner - no voting rights, same as the Makuleke.
- In order to make this process move forward, LEDET suggested that the unregistered CPAs are for now listed as secondary beneficiaries with their interim agreement or MOU in place, once the registration has been processed, the COMA can be updated, and enter as a legal entity and receive the benefits of rental as well as employment. The MOU assists in allowing for equal beneficiation and act as an inclusive group as if all entities were registered CPAs. This option will be explored by LRC from a legal perspective as well as investigate what the hold up of the registration may be. (However this option of secondary beneficiaries was later overturned as an option).

## 4.3 Session 3: Review Vision & strategic objectives

See Day 1

## 4.4 Session 4: Identifying roles & responsibilities for COMA

### 4.4.1 Identifying Activities, Roles & responsibilities from policy documents (plenary)

In plenary Sharon gave an overview of a range of policy documents that highlight specific roles and responsibilities. These were discussed and followed by a detailed analysis in groups. She noted that first one must look at the chosen co-management model as a way to guide the potential scope of each of the parties.

#### 4.4.1.1 Co-management models

The landowners have selected the Part Co-managing - Part Lease Model (Pay lease and involve communities in co-management). The facilitator indicated that this falls on a continuum of potential models Figure.

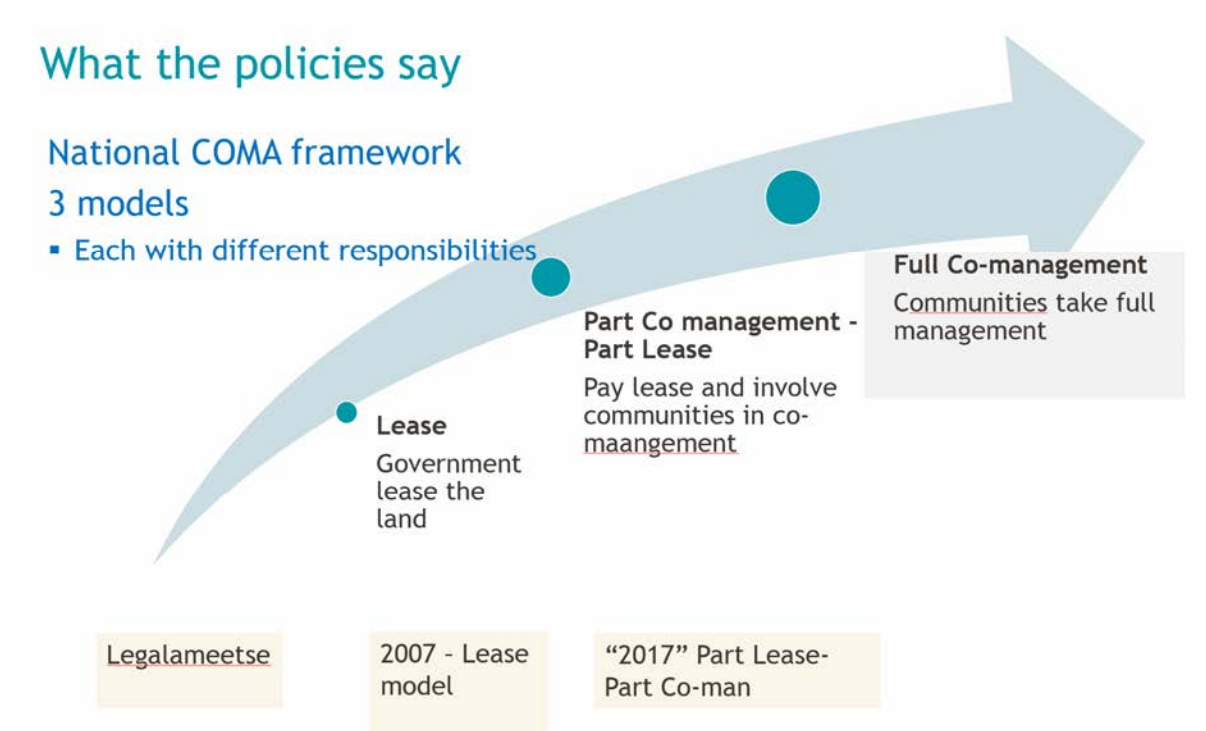


Figure 13: Schematic showing different co-management models as per the Co-Management Framework (2010).



Within the COMA (draft, 2017) it states:

“3.2 The parties agree that the model applicable to Legalameetse Nature Reserve should be in the form of a part lease and part co-management agreement between the parties, with the consideration of benefits for communities including;

- participation in management activities and capacitating communities to take up management roles in future;
- empowering communities through skilling in
- financial planning,
- project management,
- nature conservation and
- natural resources management;
- consultation of communities by the other party;
- access the reserve for resource harvesting and spiritual rituals”

When entering into a co-management model, the ‘boss’ within the system is a collaborative function. There has been support provided by AWARD by creating the Development Framework document, Beneficiation Framework document, revision of the PMP together with the Kruger to Canyon Biosphere Stewardship sector as well as the facilitation and workshop preparation to allow for the transformation of once community members now into landowners.

#### 4.4.1.2 Roles & responsibilities within the co-management agreement

Sharon noted that there are various legislative documents and policies that are available to support the COMA and understanding roles and responsibilities. She noted that we MUST draw on these (Table 8Error! Reference source not found.) to guide the process.

TABLE 8: SUMMARY OF POLICY DOCUMENTS THAT TALK TO ISSUES OF ROLES AND RESPONSIBILITIES FOR CO-MANAGEMENT

| POLICY DOCUMENTS  | IMPLICATIONS AND QUESTIONS THAT ARISE ON RIGHTS, ROLES AND RESPONSIBILITIES  |
|---|--|
| <ul style="list-style-type: none"> <li>- MPM/ IRMP</li> <li>- Development of LNR</li> <li>- Beneficiation from LNR</li> </ul>                                     | Who develops each of these?<br>How does it happen?   |
| <b>NEMPAA- talks about</b> <ul style="list-style-type: none"> <li>- Use,</li> <li>- Access and</li> <li>- Development,</li> <li>- Capacity development</li> </ul> | Roles and responsibilities must be established for <ul style="list-style-type: none"> <li>- defining use (quantity? Timing? Who?</li> <li>- access (PMP and Beneficiation Plan)</li> <li>- what is the medium-term development strategy and plan? Who decides this and how?</li> </ul> |
| <b>Restitution in PA</b><br><b>Institutional arrangement have clear roles, procedure and responsibilities</b>   | Places an imperative to make sure this happens   |
| <b>Co-management framework:</b><br><b>Models for co-management each with different roles and responsibilities</b>   | Each model has with different roles and responsibilities. In the case of LNR the part lease/ part co-management roles and responsibilities must be detailed.   |



|  |  |
|--|--|
| <p><b>Cabinet memo</b></p> <ul style="list-style-type: none"> <li>- Structured regime of economic benefits, - accrue to the claimants as owners of the land</li> <li>- Conservation in perpetuity</li> <li>- All parties to define commercial activities within the agreement</li> </ul> | <p>Beneficiation<br/>Who benefits? How</p> <ul style="list-style-type: none"> <li>- Financial</li> <li>- Non-financial</li> <li>- Where is this agreed and signed? (Beneficiation Plan)</li> </ul> <p>Development</p> <ul style="list-style-type: none"> <li>- Who decides on commercialisation?</li> <li>- Where is this planned and documented?</li> <li>- How do both of these link to the Park Management Plan?</li> </ul>   |
| <p><b>Roles &amp; responsibilities from draft COMA (2017)</b></p> <p>This states the need to:<br/><i>Establish and maintain a co-management committee</i></p>  | <p>Section 9.1, under the institutional arrangements, states that the CoMaC shall be formed among the primary stakeholders from both the management authority and the landowners. It is important that the CoMaC has equal representation, and all six (6) CPAs are to be present (memorandum of understanding (MOU) is in place), however, DRDRL has warned LEDET against engaging with all CPAs that are not yet registered and without settlements (legally processed).</p> |

The CoMaC need to have a shared responsibility and the election of each position needs to be carefully selected (chairperson, vice chairman, secretary etc.) as well as a rotation/ re-election of roles. Once these roles are defined, better protocols and procedures can be drafted to ensure transparency, good communication, equality as well as a fair representation.

Co-management agreement will be guided by the values of the vision. These are portrayed through the various strategic objectives that were developed. Refer to pages 16 - 18.

#### 4.4.2 Session 4: Group work on detailed roles and responsibilities for COMA as derived from NEMPAA

Participants were divided into three working groups. Each group was given a Sections from NEMPAA and asked to

- a. and circle/ underline any activity (action) and
- b. discuss who should do this and why (use the Table)

This activity would allow for roles and responsibilities to be outlined. Each activity needs to be assigned to an action by the LMC, LEDET and/or the CoMaC.

Results were as follows:



TABLE 9: RESULTS OF DISCUSSIONS ON ROLES AND RESPONSIBILITIES DRAWN FROM NEMPAA SECTION 42 OF CO-MANAGING AS WELL AS THE TOOLS PROVIDED TO SUPPORT, ASSIST AND IMPLEMENT THE ACTIONS.

## Analysis of NEMPAA Section 42 - Co-management of Protected Area

### 1. Delegation of powers to other parties in the agreements

This refers to delegation of powers to the LMC for example.

| Activity   | LMC   | LEDET  | Co-Ma Com  |
|--|---|--|--|
| 1.1. Delegation of powers to other parties in the agreements.<br><b>Tools: LMC Constitution, Economic &amp; technical strategic objectives.</b>                | <ul style="list-style-type: none"> <li>Identify the power to be delegated to LMC.</li> <li>Show/ demonstrate willingness to manage.</li> <li>Make formal request to MEC</li> <li>Cascading information to CMC.</li> <li><b>Is delegation to LMC or separate?</b></li> </ul> | <ul style="list-style-type: none"> <li>Look at treasury prescribes for guidance into understanding of power within the agreement.</li> <li>LMC showing interest in an activity, once satisfied with requirements, MEC can formally delegate powers towards LMC.</li> </ul> | <ul style="list-style-type: none"> <li>To implement new delegation structure/ powers.</li> </ul> |
| <b>Comments:</b><br>If the LMC feels that they can take responsibly over something, LEDET & LMC can make a formal request to the MEC to delegate these powers. |   |  |  |

### 2. Apportionment of any income generated from LNR & the benefit sharing.

| Activity   | LMC   | LEDET  | Co-Ma Com   |
|--|---|--|---|
| 1.2. Apportionment of any income generated from LNR & the benefit sharing.<br><b>Tools: BSDP, DP, Development proposals from Communities, investment framework (within DF), financial model.</b> | <ul style="list-style-type: none"> <li>Participation in benefit sharing planning.</li> <li>Communication to the communities.</li> <li>Development proposals from each of the 6 communities and responding to requests.</li> <li>*Precautionary statement around 'when income is available'</li> </ul> | <ul style="list-style-type: none"> <li>Implementation of the Benefit Plan from CoMaC.</li> <li>Development of cost centre. Delegated to CoMaC? See point 1.1.</li> <li>Account establishment for CPA.</li> </ul> | <ul style="list-style-type: none"> <li>Join participation &amp; agreement of the Benefit. Development plan.</li> <li>Support implementation.</li> <li>Monitor &amp; evaluate implementation.</li> <li>Ensure equal sharing of benefits.</li> <li>Understanding the type of income?</li> <li>Shared bank account?</li> </ul> |
| <b>Notes:</b><br>The apportionment of income is a complex topic for CMC to discuss and act alone, this should be a collective functioning of the CoMaC and wider LEDET.                          |   |  |   |



**Question: How can the apportionment of any income generated, and benefit sharing be done?**

Answer:

Under the traditional council, not the CPA, the establishment of development plans for their villages (school support, clinic etc.). Direct beneficiaries are the villages and the chief. A good example is that of the Makuleke and Isimangaliso Wetland Park whereby 10% is given to the communities and 70% remains the CoMaC. The Beneficiary Plan must outline who moderates and adjudicates the apportionment of the revenue. LEDET needs to open an account for the LNR as a cost-centre, where LEDET reports quarterly to the CoMaC. LEDET also have the responsibility to alert the CoMaC when there are financial opportunities for LNR. Clear minutes, clear reporting and structured protocols. Accountability of the LMC as this will act as a trust building exercise.

**Question: Who would be the implementors of the projects as the CoMaC?**

Answer:

- The role of the CoMaC is to identify the needs of the community - Investment plan could be added into the Development plan as a supporting document.
- A proposal is on selecting a committee member who focus on the feasibility of the projects proposals that are submitted by the communities.
- LEDET can investigate the account options which can be established for the LNR. The other party can delegate powers as per section 42 point 1.1. Legislation is there are a guide, we cannot ignore this.

The LMC needs to understand all that is happening as they act as the voice for their communities. If they do not understand what their roles & responsibilities are then how can this be carried through to their communities. Devising of a formula for the revenue generated, this can be investigated as a financial model. A policy on what percentage goes into various development & upliftment projects to be drafted as a guideline.

**Question: Does the LNR currently generates enough income through the gates to maintain the Reserve?**

Answer:

- Both Paulina and Eric responded No. Sharon continued to explain that there will always be a need for state/ government funding. Sharon just brought into perspective that there is currently not a lot of funding so when looking into how money should be split and spent, it is already not covering the maintenance of the Reserve alone.
  - o Clarification that money comes from treasury DEFF and this is filters through to different departments within Government (Education, Social Development etc.), LEDET are not on the priority list.
  - o Income brought in source through the conservation 'grant' or 'levies', this is what the LMC knows is coming in. The other portioning also can come in from non-monetary sources.
  - o The LNR is not a cash cow.
- The zonation is an important factor as the LNR is a sensitive environment. Boundaries are being set due to the size of the reserve, the sensitivity of the land. The LNR has a lot of value in the biodiversity aspect.
- The **Benefit Sharing Development Plan (BSDP) previously called the Beneficiary Framework**, needs to be seen and approved by LEDET. Within LEDET, there is however another level of approval that needs to be met and that is through the HOD as well as the CFO. The BSDP needs to pass through the CoMaC before implemented.





### 3. Use of biological resources

| Activity  | LMC   | LEDET  | Co-Ma Com   |
|---|---|--|---|
| 1.3. Use of biological resources<br>Tools: <a href="#">Benefit Sharing Development Plan BSDP</a> .  | <ul style="list-style-type: none"> <li>Education &amp; awareness to the surrounding community members and the TAs.</li> <li>Engage 'koksa' TA to have their involvement.</li> </ul> | <ul style="list-style-type: none"> <li>Checking of seasons to reflect how much and where can be used.</li> <li>Check availability &amp; the sustainability of the use of the resources.</li> </ul> | <ul style="list-style-type: none"> <li>Endorsement and implementation of <a href="#">Benefit Sharing Development Plan</a> which includes resource use.</li> </ul> |
| <p><b>Comments:</b><br/> <i>Question: Do the communities entering into the reserve to harvest resources, need to pay gate fees?</i><br/>           Answer:</p> <ul style="list-style-type: none"> <li>- Thabang clarified that harvesting for personal use would allow for a free entry. See point 1.4.</li> <li>- The LMC would be responsible to conduct environmental education and awareness to their communities on a daily basis.</li> <li>- Clarity on the current permitting system was given and suggested that the LMC starts issuing the permits and not the TA. The permitting system is a bit of a concern for LEDET; the TA issuing of the permits was because of old apartheid ways which was under customary laws. The TAs need to have a bit more of a legal standing in this instance, therefore a deeper look into how they can be incorporated into the BSDP could assist with the permitting staying with the TA if that is to be the case.               <ul style="list-style-type: none"> <li>o A suggestion that the TAs provide a letter to the communities which they can then bring to the LNR rangers as they are the ones who manage and know the resources.</li> </ul> </li> </ul> |   |  |   |

### 4. Access to the area

| Activity  | LMC  | LEDET   | Co-Ma Com  |
|---|--|---|--|
| 1.4. Access to area<br>Tools: <a href="#">BSDP</a> , <a href="#">PMP</a> , <a href="#">Communication strategy</a> | <ul style="list-style-type: none"> <li>Harvesting for personal use - free entrance.</li> <li>Free access for LMC unless formal business is being conducted.</li> <li>Identify types of access.</li> <li>Education and awareness to the community areas.</li> </ul> | <ul style="list-style-type: none"> <li>Implementation of BSOP developed by CoMaC.</li> <li>Approve access.</li> </ul> | <ul style="list-style-type: none"> <li>Monitor &amp; information sharing.</li> <li>Development of BSOP for Reserve access.</li> <li>Gate security and access - Guided by PMP.</li> </ul> |
| <p><b>Comments:</b><br/>           No further comments.</p>   |  |   |  |



## 5. Occupation of the P.A.

| Activity  | LMC   | LEDET  | Co-Ma Com   |
|---|---|--|---|
| 1.5. Occupation of PA   | <ul style="list-style-type: none"> <li>No occupation within the LNR. *MacNeil occupation”</li> <li>Education and awareness to community.</li> </ul> | <ul style="list-style-type: none"> <li>Can occupy for management purposes.</li> <li>Implement ‘rules’ drafted by CoMaC.</li> <li>Implement the PMP.</li> </ul> | <ul style="list-style-type: none"> <li>Monitor where there is occupation.</li> <li>Develop ‘rules’</li> <li>Follow the PMP</li> </ul> |
| <p><b>Comments:</b></p> <ul style="list-style-type: none"> <li>Currently there are occupants on the LNR within the orchards, and</li> <li>A discussion around Mrs. MacNeil suggested that she would need to move out as no one has papers or documents around Mrs. MacNeil’s occupation on LNR, <ul style="list-style-type: none"> <li>There are also people staying within the orchards and there are not documents on this either.</li> </ul> </li> <li>Clarification sought on the buffer zone of LNR and <a href="#">how many kilometers away from the perimeter of the PA which restricts occupation</a>. This is a collective investigation and action of the CoMaC who would need to deal with the occupation as well as conducting a bit more research on what are the <b>norms that govern buffer zones are</b>.</li> <li>The LMC needs to continue with the education and awareness around these implemented rules. These rules are developed by the CoMaC and implemented by LEDET.</li> <li>Once the CoMaC has been established, a bigger issue regarding the buffer zone will need to be discussed.</li> </ul> |   |  |   |

## 6. Development of economic opportunities

| Activity   | LMC   | LEDET  | CoMaC   |
|--|---|--|---|
| 1.6. Development of economic opportunities<br><i>Tools: Development Plan (DP), EIA,</i>  | <ul style="list-style-type: none"> <li>Participation and empower the LMC.</li> <li>Capacitate the communities to understand the DP.</li> <li>Support Implementation of DP plan by CoMaC.</li> </ul> | <ul style="list-style-type: none"> <li>Development of feasibility studies</li> <li>Support Implementation of DP plan by CoMaC.</li> <li>Provide budget to match fund.</li> <li>Ensure compliance on development (EIA)</li> </ul> | <ul style="list-style-type: none"> <li>Budget negotiations &amp; participation.</li> <li>Implementation of the Development Plan</li> <li>Source funding such as partnering with NGOs</li> <li>Oversee the economic development.</li> <li>Private investment management.</li> <li>Existing proposals to manage.</li> </ul> |
| <p><b>Notes:</b></p> <p>Disclaimer: It is not to stop development; procedures must be followed.</p> <ul style="list-style-type: none"> <li><b>PMFA</b> have constraints on appointments of contractors. Landowners not allowed to partake in the signing contact. <ul style="list-style-type: none"> <li>Note that PMFA applies for public funds and not private funds.</li> <li>If a <b>private investor</b> shows interest in the LNR, the private investor will have to go through the CoMaC, they will then have to decide if this investment is adopted. <i>If a contractor is needed for this private investor, how does the CoMaC go forward in making the decision. If it is private funds, why can’t the LMC be a part of the selection process.</i></li> </ul> </li> </ul> |   |  |   |



- Treasury rule 16 allows for an application for exception to be able to participate in the public funds.
- There are two sides to this,
  - 1) LEDET is subjected to all the regulations if development were to happen on PA.
  - 2) LMC, if they decide to develop their land, they are not subjected to the regulations.

*Question of Clarification: When seeking private investment, an example of if the LMC sourcing an external funder for development, can the LMC go ahead and be a part of the process?*

Answer:

- Yes. If it were LEDET who sourced, they would need to provide a treasury regulation tool kit prior to development.

## 7. Employment & appointment of employees

| Activity                                   | LMC  | LEDET  | Co-Ma Com   |
|--|--|--|---|
| 1.7. Employment & appointment of employees | <ul style="list-style-type: none"> <li>• Observers status.</li> <li>• Actively participate in the recruitment process with EPWP.</li> <li>• Consulted during appointments.</li> <li>• Provide bursaries to their beneficiaries to study conservation.</li> </ul> | <ul style="list-style-type: none"> <li>• Managing of recruitment process and selection process.</li> <li>• HR policies and procedures only under LEDET commercialization strategy. (depends on who peruses the development)</li> </ul> | <ul style="list-style-type: none"> <li>• Participation &amp; planning of the consultation.</li> </ul> |

### Comments:

- Within LEDET, they hold their own **Human Resource (HR) policies** and this is to be borne in mind when the recruitment of any vacancy is conducted. However, if the LMC wants to develop on their own land as well as recruit on their own land, they are not bonded by those policies. Therefore, it depends on who peruses the development and the recruitment. (*note: this needs clarity*)

*Question: If a reserve manager needed to be appointed, what role would the LMC have in this process?*

- Answer: The LMC would have observer status, which allows for the LMC to oversee whether the process has been conducted fairly. The observer status does not allow for active participation, but you would be invited to be an observer.

*Question: If the LMC does find the process unfair, how do they go about voicing this?*

- Answer: LEDET explained that there is space to voice a comment, but the nuts and bolts on how this is gets done is still unclear.
- The landowners still felt that this process is unfair as they do not like to feel like observers on their own land. LEDET hands are tied by the law and how they need to undergo the recruitment process. The only way LEDET could challenge this process would be to take it up to the Ministers office.
- LRC explained that if LEDET can identify the provision that the landowners are not happy about, it can be challenged, on the basis that it does not benefit the community. However it may not be the policy itself which is the problem - rather the implementation of the policy.
  - o LEDET showed support in looking into the amendment of these policies. Landowners do need to understand the policy making process, at a local level there are bylaws however policies are developed at a National level. Look from bottom up to check if the policy matches an Act. There are existing rules that stipulates that people need to be recruited locally and if the skills are not found within the adjacent communities, outside people may be sourced. Needs to be done on a National level as this could affect other nature reserves.



**Question: Should there be legal advice on whether there are provisions that could be amended? Who takes responsibility for this?**

- Answer: Derik, Mr. Mangena (chairperson), Mr. Mangena had volunteered. (Working Group - Recruitment).
- A discussion took place as to whether the **recruitment policies** are within the PMP, as the landowners felt that there was no consultation process. This is a legal requirement of a PMP to undergo community participation.
  - o LEDET stated that however the landowners were invited to the consultation meeting and yet no comments were raised there.
  - o Landowners responded that it was very last minute and done through a phone call to an individual which did not give them time to meet as a LMC. This should have been a jointly discussed process right from the beginning and through a CoMaC. This is the proper procedure that needs to be established.
  - o This was agreed

## 8. Financial & other support to ensure effective administration

| Activity   | LMC   | LEDET  | Co-Ma Com   |
|--|---|--|---|
| 1.8 Financial & other support to ensure effective administration   | <ul style="list-style-type: none"> <li>• Sourcing of volunteers.</li> <li>• Human resources.</li> </ul> | <ul style="list-style-type: none"> <li>• Mentorship and guidance to new landowners.</li> </ul> | <ul style="list-style-type: none"> <li>• Development of plans.</li> </ul> |
| <b>Comments:</b> <ul style="list-style-type: none"> <li>- Need for creation of a model where there is a financial gain for human capital investment and increasing in social investment such as internships and volunteers.</li> </ul> |   |  |   |

## 9. Additional activities briefly discussed

| Activity   | LMC   | LEDET   | Co-Ma Com  |
|--|---|---|--|
| 1.9. Representation  | <ul style="list-style-type: none"> <li>• To represent the community interest</li> </ul>   | <ul style="list-style-type: none"> <li>• Represent Government interest</li> </ul>                                       | <ul style="list-style-type: none"> <li>• Overall interest including LNR</li> </ul>       |
| 1.10. Drafting and overseeing of plans<br>Tools: PMP, DP, BP       | <ul style="list-style-type: none"> <li>• Participation in review of the plans</li> <li>• Participation and empowerment in drafting of plans.</li> </ul> | <ul style="list-style-type: none"> <li>• Facilitate review of plans</li> <li>• Draft &amp; endorse the plans</li> </ul> | <ul style="list-style-type: none"> <li>• Monitoring &amp; evaluation of plans</li> </ul> |
| 1.11. Cabinet memo   | <ul style="list-style-type: none"> <li>• LNR to continue to be managed as PA</li> </ul>   | <ul style="list-style-type: none"> <li>• To continue to manage LNR as PA</li> </ul>                                     | <ul style="list-style-type: none"> <li>• Observe contents of cabinet memo</li> </ul>     |
| 1.12. Co-management Agreement                                      | <ul style="list-style-type: none"> <li>• Participate in the development</li> </ul>  | <ul style="list-style-type: none"> <li>• Participate in the development</li> </ul>                                      | <ul style="list-style-type: none"> <li>• Participate in the development</li> </ul>       |
| 1.13. Internships & Training Opportunities. (Capacitate & empower) | <ul style="list-style-type: none"> <li>• Participation in the planning</li> </ul>   | <ul style="list-style-type: none"> <li>• Source funding for training &amp; priorities job opportunities</li> </ul>      | <ul style="list-style-type: none"> <li>• Implement and monitor</li> </ul>                |
| 1.14. Managing & expanding   | <ul style="list-style-type: none"> <li>• Identify and surrender the land for expansion</li> </ul>   | <ul style="list-style-type: none"> <li>• Manage and expand</li> </ul>   | <ul style="list-style-type: none"> <li>• Monitor</li> </ul>                              |



## 4.5 Concluding remarks

A great deal of progress was made during the proceedings in terms of a) addressing challenges and concerns from all parties regarding perceived stumbling blocks for signing the COMA and b) fleshing-out some of the roles and responsibilities for COMA.

It was concluded that work needs to continue on a number of fronts as set out below Table 10. A number of other questions also emerged and need to be dealt with as part of the CoMaC.

TABLE 10: LIST OF KEY ACTIONS EMERGING FROM DAYS PROCEEDINGS

| TASKS   | ACTION  |
|---|---|
| 1. LEDET to clarify questions raised  | LEDET Eric and Shoni  |
| <ul style="list-style-type: none"> <li>i. Looking into the amendment of policies and provisions               <ul style="list-style-type: none"> <li>- Process for appointment of reserve manager</li> </ul> </li> </ul>                    | LEDET (P.A. Dir) and LMC Working Group (Mr Mangena and Mr Thobejane)  |
| <ul style="list-style-type: none"> <li>ii. Cost-centres for INR</li> </ul>  | LEDET (P.A. Dir)  |
| 2. Urgent need to <b>explore resolution for settlement agreements</b> for remaining four communities  | LRC to lead research and to liaise with LEDET (P.A. Dir) and DrDLR; AWARD to try to secure a little support for LRC |
| 3. The urgent need to establish a fully-fledged <b>Co-management committee</b> between land-owners and LEDET. This would involve:   |   |
| <ul style="list-style-type: none"> <li>i. Formation of the LNR CoMaC;</li> </ul>  | LEDET and LMC   |
| <ul style="list-style-type: none"> <li>ii. Continued work on roles and responsibilities facilitated by award if possible</li> </ul>   | AWARD   |
| <ul style="list-style-type: none"> <li>iii. Work on the design of the committee (organogram) taking lessons from the Makuleke and others from the last shared-learning event in Feb. 2019;</li> </ul>                                       | AWARD will try to source external facilitator   |
| <ul style="list-style-type: none"> <li>iv. Capacity development regarding functioning of a committee (processes and procedures, record-keeping, representation, financial accountability, reporting and communicating and so on.</li> </ul> | AWARD to try to source potential support and to work with LMC   |
| 4. Further capacity development on developing a <b>constitution</b> . This was started with Shirhami Shirinda from IRC but requires repetition, and more details (link to 3.4)  | LRC   |
| 5. Capacity development regarding the establishment of a <b>business entity</b> for the landowners in order to engage with development opportunities  | AWARD to try to source potential support and to work with LMC   |
| 6. Detailed engagement with the development plan and endorsement by all parties   | TBC   |
| 7. Detailed engagement with the beneficiation plan (now called the <b>benefit sharing development plan</b> )  | TBC<br>Note: Must be endorsed by MEC  |

The workshop closed at 18h15.



## 5 Day 3 (7/11/20): Governance & institutional arrangement for co-managing: Community based arrangements (Internal)

### 5.1 Welcome, participants & purpose of the day

The workshop started at 8h00 am. Participants were welcomed. The LNR Reserve manager had departed at the end of Day 2. LEDET (Dir P.A.) was present until 11h00.

After a very productive day 2 of the visioning workshop, the facilitator welcomed all and explained that we will now turn our focus to internal governance: that is

- Within the LMC;
- Between claimant communities.

Thus, the purpose for the day is to collaboratively identify challenges and strengths for internal institutional arrangements as the basis for further work and a way forward. Nonetheless, it was recognised that numerous issues were raised the previous day that needed to be dealt with. It was agreed that we would adopt a flexible agenda that would

- Address key issues that had emerged from Days 1 and 2 that needed further discussion;
- Initiate discussions on internal governance.<sup>8</sup>

Given this intention, LEDET was invited to stay for part of the meeting but were advised they could leave if need be once the discussions turned to internal LMC governance arrangements.

### 5.2 Issues for further discussion

#### 5.2.1 Issues of identity and co-management

Sharon introduced the discussions by returning to the Day 1 discussion noting that co-management is a transformative process which aims to address inequities of the past. Where she urged all participants to adopt the term “landowners” so as to recognise the need for a new identity. All agreed that this had been helpful and would be mindful of this in future. The terms ‘communities’, ‘beneficiaries’ and ‘land claimants’ had a very specific meaning and use and would be used for those purposes.

#### 5.2.2 Restitution process

- The LRC conducted some research overnight, providing feedback regarding the requirement of being a registered CPA before entering a COMA. The LRC’s reading of both Acts (Restitution Act and NEMPAA) reads that there is no requirement to be registered specifically as a CPA before entering into a COMA.



Section 42. (1) (a) The management authority may enter into an agreement with another organ of state, a **local community...**”; therefore the issue centres on what constitutes representation of a community.

- NEMPAA defines a “local community” as
  - who is adjacent to a protected area (PA);
  - who has a right over the PA;
  - and/or a person who has an interest in the PA.
- Within the Restitution Act, ‘community’ is defined as any group of persons whose rights in land are derived from shared rules determining access to land held in common by such group, and includes part of any such group;
- The question also is if there is no finalised settlement agreement, can the claimants be represented by another entity such as a Trust or NPO. DRDRL seems to be of the opinion that it must be a CPA but where they derive this requirement from is unclear. For DRDRL to finally verify who has the rights to the land, they prefer CPAs (as this provides a stronger support to the claim since they have been registered). Their concern is if a community is unregistered, there appears to be inadequate proof of the claims’ validity.
  - David commented that assurance may still be possible with other forms; he will seek counsel on this.
  - He was asked to consult and discuss with DRDRL at National level and to advise them.
  - LEDET noted that if in the case there is consensus on the interpretation by DRDRL, LEDET would accept this, provided there is documentation. In the situation that DRDRL disagree, the option would be to elevated to court (this could look at alternative legal entities and/or question the Sekoro claim process)

*Question: Clarity is needed on the current status of the settlement agreement and what is the next step?*

**Answer from LEDET:**

- According to DRDRL the four communities fall under the Makhutšwe CPA (An Agricultural CPA administering farm portions outside the Reserve). Two communities within the Makhutšwe CPA should not be there as they do not have farm partitions within the PA (Madeira and Cyrus).
  - The other two have land on both sides (Paris and Balloon): Claims on the protected area are not settled, whilst the agricultural side is settled.
  - Because the Makhutšwe CPA has land in the agricultural areas, this has caused confusion and challenges.

**Dissatisfaction with CPA:**

- The LRC commented: The dissatisfaction with the CPA itself must be resolved using the constitution of the CPA. It mentions holding an annual general meeting or a special meeting when there must be voting to select their leadership. The CPA has the right to make the decision to re-elect or remove members who may not be performing to the committee’s standards.
- If all else fails, a second option, (not a recommended option) is a written letter to the DG. Under this the CPA gets put under administration. This may have a number of negative consequences:
  - There are CPAs that have been put under administration for 15 years. LRC challenged DRDRL in court to remove those CPAs of administration. When a CPA is put under



administration, it should be for the purpose of rehabilitating the CPA and to fix/resolve issues.

- Another option to have the CPA terminated. However this is a very drastic measure and not necessary in this case.
- Placing pressure on DRDRL could potentially fast track the settlement agreements.

#### The Sekororo claim

- Madeira and Cyrus blame the DRDRL for incorrectly merging them together with claimants over agricultural land the Sekororo claim.
- LRC noted that both CPAs have enough reason to go to court to give reason for the mistakes that were made by the Department. The court can address this.

#### Length of time for resolution:

- The LRC pointed out that the claim was lodged in 1998, and the settlement agreement was reached in 2005 for the agricultural land. It means that approximately 14 years later, the Department has still not settled the protected areas side. That, to the LRC is unreasonable and there is no explanation to why this has taken so long.

#### In summary

- DRDRL has advised LEDET to only go into a COMA with CPAs that have a settlement agreement. The LRC is to find out if it is possible to enter into a COMA as another entity other than a CPA and seek clarity (see below). If clarity is found, a supporting document will be passed on to LEDET to allow for them to approve the process.
- The LRC will engage with their colleagues within the DRDRL and see if they can come to an agreement. On two issues (a) is a settlement agreement necessary to enter into COMA and (b) therefore can the communities without a settlement agreement (Madeira, Paris, Balloon and Cyprus) be represented by a form other than a CPA.
- If not, then the matter may have to be escalated to court, not to terminate but to see if there is a way forward to amend this issue. (They would put forward that DrDLR chose an untenable governance arrangement when working with the Sekororo claim by mixing communities that did not have agricultural land with those with agricultural land).
  - It would be better not to go to court as this is also a time-consuming process which can delay the issue for even longer. David noted that we should look for solutions out of court. There are people within the Department who LRC can seek to assist in making these amendments without the process of court. Although it will take a long time to resolve the discussed issues, the formation of a CoMaC with all six CPAs onboard is the goal.
- Investigation of other options by the LRC will proceed on whether the four non-registered CPAs can still enter into the CoMaC but at this stage possibly enter as either a trust, or a non-profit organisation (NGO). An example then would be the CoMaC comprising of two (2) CPAs and four (4) Trusts/NGOs. Within all the referenced Act and laws, there is nothing apposing this.
- **It is important to note that the LRC cannot represent clients who are in conflict, meaning that the internal conflicts need to be managed or resolved before the LRC can take matters forward.** The LRC suggested that they can assist with mediation, in which case LRC needs





Resolution Letters from the LMC and one from each of the communities. The former was done the same evening; the others could be emailed later.

**Question: LEDET can only enter into COMA with registered CPAs, what happens when entering into an agreement with a traditional authority (TA)? They are not CPAs; they are just a traditional structure. What happens then?**

- Answer: Eric responded that DRDRL are the “owners” of the land, and the TAs are listed as ‘nominal owners’ or custodians. They are bound by the conducts of DRDRL; these conducts are in place to create resolutions on how the land will be used and how the land can be developed. Once resolutions have been done by DRDRL, LEDET enters into an agreement with the TA, as their entrance into those communities is through the TA. The TA together with the communities are affected by this and they enter into the agreement with LEDET.

## 5.3 Drafting a constitution

Thabang described exercise.

For the purposes of this report, a summary of the points that were clearly named and explained is provided below.

## 5.4 Road map for deliverable

Establishment of a road map for actions on deliverables will ensure that there is a way forward from this workshop. The looming question of when will the CoMaC will be established and the COMA signed? The group suggested end of February 2020. The CoMaC is established out of a COMA, which has been drafted therefore the committee should be established.

From this time period through to the new year, it allows for engagement with DRDRL; however group needs to bear in mind that December period is often a close down period for most businesses and departments meaning that there will be little traction.

### 5.4.1 Actions for deliverable and timeframes

1. Common understanding on the content of the COMA (both drafts) (Beginning December)
  - a. Who? Both parties - need to be defined (January 2020)
  - b. Clear roles and responsibilities of parties
  - c. Who? When? (January 2020) \*Exchanging of the drafts - November 2019.
  - d. Understanding terms (need representation of two parties as well as the legal teams) (Beginning of January 2020)
    - i. Erik mentioned that he would request for LEDET legal representatives to be present.
    - ii. Request for David to be present at the meeting.
  - e. Consensus on the two drafts.
2. COMA concluded (15 March 2020)
  - a. Negotiations between DRDRL regarding the signing of COMA need to be resolved
  - b. Consensus for COMA to be signed (see above)



- c. Negotiations need to end - move forward.
3. Proper model for the four unregistered landowners - legislative logistics Four communities need to have a resolution in writing for support by the LRC. \*URGENT
  - a. Formation of “Trust”
  - b. The review of the four non-registered claimants.
  - c. Resolve issues without taking it to court.
  - d. Internal conflict management - Resolving & Communication (LMC needs to resolve before representation by LRC) (15 December 2019)
  - e. LRC to assist in drafting the resolution to speed up the process.
  - f. LRC assistance in the settlement agreements within Makhutšwe CPA.
    - i. Request for members from the CPA to be present with LRC at the first meeting with DRDLR. Ideal to have two (2) members, one (1) from the resolved CPA and one (1) from the unresolved CPA. Dr Sharon requested that the people selected much have a long institutional history.
4. Formation of the CoMaC.
  - a. \*Design the CoMaC and nominate committee members to serve. They need to be part of the COMA discussions (February 2020).
  - b. The word design was used in this instance as it is important to know what the committee needs to look like, the positions it should be comprised of before electing people. An example is the role of the secretary, how can you have a secretary appointed but they never come to the meetings? Somewhere in your constitution you would need to stipulate that if someone in this position does not arrive at a meeting on two occasions, he/she is then removed from the committee and replaced.
5. Provision for involvement of staff recruitment, working group. (November 2019).

## 5.5 Internal governance

### 5.5.1 Issues of identity and co-management

Sharon introduced the discussions by noting that co-management is a transformative process which aims to address inequities of the past. As communal residents, communities had access to their land and enjoyed rights which carried with them responsibilities. This placed people in a custodial role of the land, governed by customary legal arrangements.

With forced removals under apartheid, people lost their rights and with it their identity as landowners and custodians. With restitution we need to explicitly acknowledge that it is not just a legal process but but also a socially and politically transformative one. It is not a favour; restitution is in and of itself a right to regain a sense of identity.

In this regard, terminology is important. The continued referral to ‘communities’, ‘beneficiaries’ and ‘land claimants’ does little to recognise this right nor a restitution of identity. She urged all participants to adopt the term “landowners” so as to recognise the need for a new identity. All agreed and it was acknowledged that the terms ‘communities’, ‘beneficiaries’ and ‘land claimants’ had a very specific meaning and use in this context.

## 5.5.2 Other Co-management Models

As an example of what the CoMaC might look like, Sharon urged participants to recall the visit to the Makuleke and also information shared by other land claimants like the SAN in February 2019.

A presentation was given by Dr Sharon and Thabang on how the organisational structure between the Makuleke and SANParks through the Joint Management Board. The Makuleke CPA have adopted Full Co-management so it is somewhat different.

- The Makuleke CPA established a joint management board where there are three (3) members from the CPA executive who represent four villages and three (3) Kruger National Park (KNP) members. This board meets every quarter.
- Over and above this, they have an additional group who joins called Friends of Makuleke, who are technical advisors who offer their services for free.
- They too have in their case a lawyer, whose expertise is within the commercial field, this was to understand the partnerships that they have with the private sector within the reserve.
- A further nine (9) Makuleke executive committee members have been selected, these members are paid through the money generated in by the CPA, the other four (4) members are not paid however they are possibly assisted with travel costs etc.
- Consultative forum which has 30 members which they withdraw from three villages. The TAs are responsible for the community development within their villages.
- There needs to be some form of relationship with the Municipality as the projects that are planned need to go into the Integrated Development Plan (IDP), even if it is only information sharing.

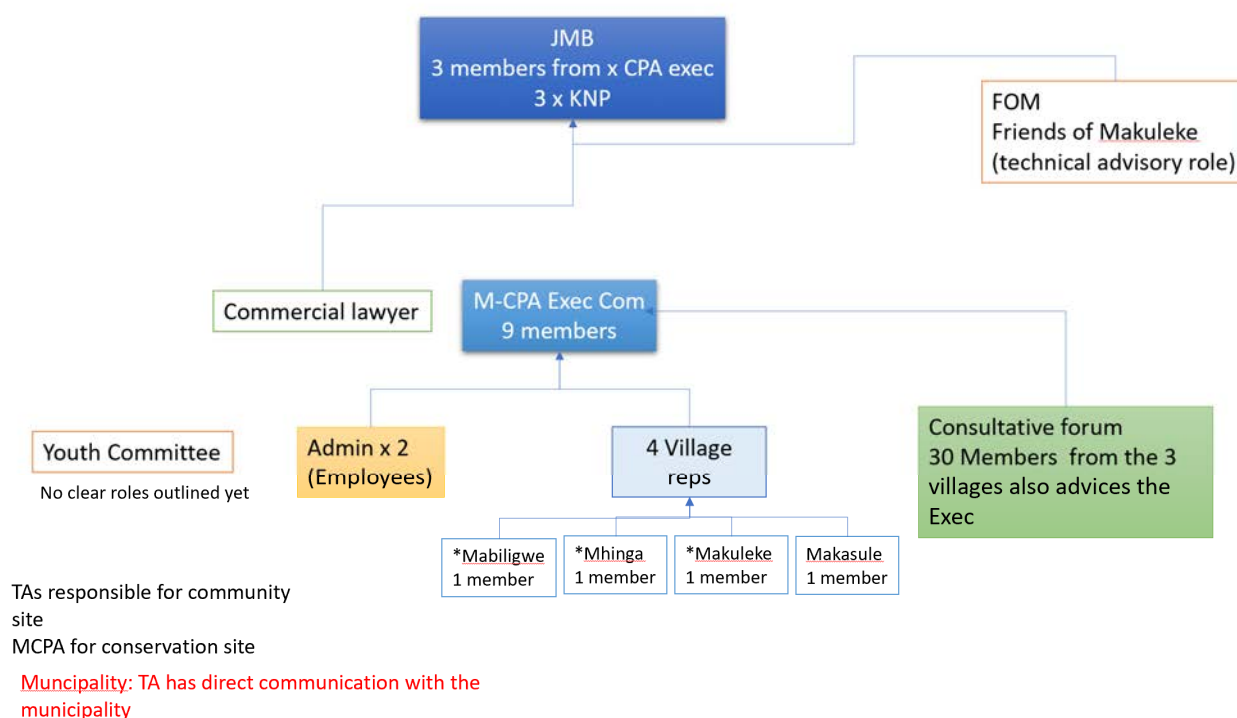


Figure 14: The organogram from the Makuleke for the Joint Management Board and Makuleke CPA



## 6 Reflections & way forward

Unfortunately further discussions on internal governance were not possible as time ran out. It was agreed this would have to be further addressed in the new year.

As the final day came to a close, reflection on various discussions, processes and contributions which were provided. It was noted that the group successfully developed a vision and strategic objectives for the CoMaC. Sharon welcomed and noted some points to think about

1. For good Governance, a set constitution for the CoMaC to be created, it will need to spell out exactly how members are nominated, how the voting would take place, how do you record minutes for meeting, what are the roles and the responsibilities of each position.
2. Financial funds for legal advice should be put aside for times when most needed.
3. Record keeping needs to be someone within the committee whose responsibility is that.
4. Framework for communication. There should not be loose arrangements as this can create disjoint within the LMC and the MA.
5. How decisions are made must be transparent and mostly should go through a well-governed CoMaC. This is particularly true with regard to developments, beneficiation and park management.

LEDET supported the suggestion of having a more collective and cooperative way forward. With the ongoing support of AWARD as well as support from LRC, co-management for the LNR is achievable.

### 6.1 Closing & Remarks

Dr Sharon led the closing of the meeting and thanked the group for a very productive four days. The workshop closed at 16h00.



## 7 Appendices

### 7.1 List Participants and organisations represented

| NAME OF ORGANISATION        | REPRESENTATIVES       | POSITION   | ATTENDANCE |
|-----------------------------|-----------------------|--|------------|
| <b>AWARD</b>                | Dr Sharon Pollard     | Director   |            |
|                             | Derick du Toit        | Assistant Director                                     |            |
|                             | Thabang Mohale        | Research Assistant                                     |            |
|                             | William Mponwana      | Research Assistant                                     |            |
|                             | Lilian Goredema       | Consultant   |            |
|                             | Harry van der Linde   | Sub-grantee (EMROSS)                                   |            |
|                             | Joanne Tylor          | Sub-grantee logistics                                  |            |
| <b>LEDET</b>                | Ramatsea Eric         | Deputy Director<br>Protected Areas (PA)<br>Directorate |            |
|                             | Mpaphuli Shonisani    | Director PA Directorate                                |            |
|                             | Ndlopfhu Mekateko     | Senior Environmental<br>Officer                        |            |
|                             | Paulina Moeng         | Reserve Manager (LNR)                                  |            |
|                             | Melba Moloto          | Intern   |            |
| <b>LRC</b>                  | David Mtshali         | Attorney   |            |
| <b>LMC</b>                  |                       |  |            |
| - <b>MAMASHIANA<br/>CPA</b> | Derik Thobejane       | Public relations officer                               |            |
|                             | Percy Maponya         | Youth  |            |
|                             | Legong MM             | Youth  |            |
| - <b>MADUTULA<br/>CPA</b>   | Aaron Mangena         | Secretary and LMC<br>Chairperson                       |            |
|                             | Josephina Mohale      | Additional Member                                      |            |
|                             | Pasha MD              | Deputy Chairperson                                     |            |
| - <b>CYPRUS</b>             | Moses Mokgwatjane     | Chairperson  |            |
|                             | Christina Mokgwatjane | Secretary  |            |
|                             | Ken Madike            | Deputy Secretary                                       |            |



|                  |                 |                     |
|------------------|-----------------|---------------------|
| - <b>MADEIRA</b> | Thomas Madike   | Chairperson         |
|                  | Alfas Mangena   | Secretary           |
|                  | Mapula Ramogale | Additional Member   |
| - <b>BALLOON</b> | Mmetle Tsororo  | Chairperson         |
|                  | Kholo Madike    | Youth               |
|                  | Malepe M        | Youth               |
| - <b>PARIS</b>   | Linah Pasha     | Secretary           |
|                  | Dishane         | Youth               |
|                  |                 |                     |
| <b>K2C</b>       | Nick Theron     | Stewardship Manager |
|                  | Mathews Madike  | LNR EM              |
|                  | Allice          | LNR EM              |
|                  | Daddy Mathaba   | LNR EM              |



## 7.3 Constitution exercise: Outline to guide discussions

### **Constitution Drafting for LMC**

**Preamble:** Background and context

**Interpretation:** Definition of terms

**Name:** Full name and abbreviation

### **Commencement**

State when the constitution will become operational

### **Area of Jurisdiction**

Place of office of the committee

### **Aims and objectives**

Why the LMC was formed

### **Election of Committee**

How will the committee be elected or constituted

### **Disputes**

How will disputes be resolved

### **Term of Office**

What is the term of office of the committee

### **Duties of the Committee**

What are the duties of the committee and which are the key positions and their duties  
(chair, Dep Chair, Sec, Dep Sec, Treasurer)

### **Powers of Committee**

What are powers of the committee, what can it do, delegate

### **Powers of members**

Who are the members of LMC, What are their powers

### **Meetings**

Type of meetings, number and frequency, And how they will be called, Quorum

### **Decisions**

How will be decisions made within the committee, by ballot? Other?

### **Notice of General Meetings**

Types of meetings, who gives notice, how and period of notice

### **Notices**

Other notices to committee members, how delivered and period of notice, response of committee members

### **Reporting**

Financial reporting, progress/status reporting, annual reports

### **Amending the constitution**

When can it be amended, procedures for amending, who amends

### **Dissolution**

How will the committee be dissolved, closed down



# award

The Association for Water and Rural Development

AWARD is a non-profit organisation specialising in participatory, research-based project implementation. Their work addresses issues of sustainability, inequity and poverty by building natural-resource management competence and supporting sustainable livelihoods. One of their current projects, supported by USAID, focuses on the Olifants River and the way in which people living in South Africa and Mozambique depend on the Olifants and its contributing waterways. It aims to improve water security and resource management in support of the healthy ecosystems to sustain livelihoods and resilient economic development in the catchment.

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